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LAW OF THE SEA

Report of the Secretary-General

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I. INTRODUCTION

The law of the sea item at the fifty-first session

1. The present report is submitted to the General Assembly in accordance with its resolution 49/28 of 6 December 1994, in which it requested the Secretary-General to report to it annually on developments pertaining to the implementation of the United Nations Convention on the Law of the Sea and on other developments relating to ocean affairs and the law of the sea. Pursuant to resolution 50/23 of 5 December 1995, the present report also deals with the implementation of that resolution.

2. At the current session, the General Assembly will also take up under the item on the law of the sea, developments in the field of the conservation and management of living marine resources concerning the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (pursuant to resolution 50/24 of 5 December 1995); and large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas, unauthorized fishing in zones of national jurisdiction and its impact on the living marine resources of the world's oceans and seas, and fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources (pursuant to resolution 50/25). The relevant reports of the Secretary-General have been issued under the symbols A/51/404 and A/51/383 respectively. Attention is also drawn to the submission by the United States of America, the host Government of the Intergovernmental Conference to Adopt a Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (23 October-3 November 1995) (A/51/116), which is presented under the agenda item on the law of the sea, and to the submission by a number of Member States on the question of the observer status of the International Seabed Authority at the General Assembly (A/51/231) and the Assembly's decision to take it up as a new agenda item.

The report to States Parties to the United Nations Convention on the Law of the Sea

3. It will be recalled that the Assembly had suggested, in its resolution 49/28, that the annual report on the law of the sea should also serve as a basis for the reports on "issues of a general nature" which arise with respect to the Convention, which the Secretary-General is required to prepare under article 319, paragraph 2 (a), of the Convention. Such reports are to be transmitted to all States Parties, the Authority and competent international organizations, in accordance with this provision of the Convention.

4. The particular attention of the General Assembly is drawn, therefore, to the first "Report of the Secretary-General under article 319 of the United Nations Convention on the Law of the Sea" (SPLOS/6), which provides *inter alia* a convenient summary of the law of the sea debate at the fiftieth session of the General Assembly; identifies two important institutional questions, namely, the question of regular and periodic review of ocean issues, and the strengthening

of inter-agency cooperation in respect of the implementation of the Convention; and discusses several important emerging issues, including, in particular, the protection of the underwater cultural heritage and marine and coastal biodiversity. Important subsequent developments as to such institutional questions and emerging issues are highlighted in the present report.

5. The Secretary-General has also offered a number of conclusions and suggestions in that report (ibid., paras. 48-55), in keeping also with the General Assembly's request in paragraph 15 (b) of resolution 49/28 that he formulate recommendations for the consideration of, and for action by, the Assembly or other appropriate intergovernmental forums ... aimed at a better understanding of the provisions of the Convention and facilitating their effective implementation.

Important trends

6. Since the entry into force of the Convention in late 1994, the international community has devoted its main attention to the establishment of the institutions it has created and to other institutional aspects, among them the role of the General Assembly. This has also been a period of consolidation as regards consistent implementation of the Convention, of harmonizing ongoing international legal and policy development with the Convention in force, and ensuring continued international cooperation within the framework of the Convention to deal with emerging issues.

7. The establishment of the new "treaty system of ocean institutions" is a major feature of the Convention, and this process, which began in 1983, is now almost complete. The new system of institutions consists of the International Seabed Authority, the International Tribunal for the Law of the Sea, the Commission on the Limits of the Continental Shelf and the United Nations Secretariat, by virtue of the special responsibilities of the Secretary-General under the Convention, and the central, ongoing role that the General Assembly is required to play in keeping the implementation of the Convention as a whole under review and monitoring important developments in law of the sea and ocean affairs. In this respect, it should be noted that the Convention does not provide for regular conferences of parties: rather, provision is made for Meetings of States Parties to establish the Tribunal and the Commission, and for subsequent Meetings as necessary, e.g., to conduct elections periodically and to adopt the budget of the Tribunal. Thus, the Meeting of States Parties to the Convention may also come to be regarded as an important component of this new system of ocean institutions.

8. While the Authority, the Tribunal, and also the Commission, will deal with specific maritime zones and/or specific aspects of ocean affairs, the central programme on oceans at the United Nations concentrates on matters of overall implementation of the Convention. It focuses attention also on the monitoring of State practice and provides information, advice and assistance on the uniform and consistent application of the Convention in the different fields of interest and concern for States and for international organizations, as well as supporting efforts which help States to implement the Convention more effectively and derive greater benefits from the new ocean order.

9. The main landmarks in establishing the new ocean institutions have been the successful conclusion in 1994 of the Agreement on Part XI, and its entry into force in 1996; the entry into force of the Convention in 1994 in a favourable environment for ensuring universal acceptance of the Convention; the adoption of General Assembly resolution 49/28, whereby the Assembly affirmed its pre-eminent role in respect of all matters relating to the Convention and to ocean affairs more generally, as well as the role of the Secretary-General under the Convention; the establishment and start-up of the organs of the Authority (the Assembly and the Council, and two subsidiary bodies) and its secretariat; the election of the judges of the Tribunal by the Meeting of States Parties, and the commencement of their work, with secretariat support by its Registry, to which the United Nations Division for Ocean Affairs and Law of the Sea continues to render assistance. Furthermore, the lists of experts for the purpose of special arbitration under Annex VIII to the Convention have been drawn up by the Food and Agriculture Organization of the United Nations (FAO), the International Maritime Organization (IMO) and the Intergovernmental Oceanographic Commission (IOC) of the United Nations Educational, Scientific and Cultural Organization (UNESCO), and several Governments have nominated arbitrators and conciliators under Annexes VII and V to the Convention. Only the Commission on the Limits of the Continental Shelf remains to be established, and the Meeting of States Parties will be electing its members in March 1997.

10. The fundamental importance of the law of the sea institutions for international peace and security, the peaceful settlement of disputes, the sustainable development of marine resources and the protection of the environment has allowed them to evolve successfully, despite the increasing financial difficulties for Governments in providing for institutional development at the international level.

11. Ocean institutions, and in particular the institutions of the Convention, should continue to evolve along lines in keeping with the interrelationships among ocean issues and with the need to consider them as a whole, as emphasized in the preamble to the Convention. This is an ongoing task and the particular responsibility of the General Assembly. Being a comprehensive instrument also, the Convention holds considerable "strategic importance ... as a framework for national, regional and global action in the marine sector" (resolution 49/28, preamble), with further implications, in turn, for the manner in which the system of ocean institutions will evolve, in particular the core institutions established by the Convention.

12. The need for oversight of developments pertaining to the acceptance and implementation of the Convention, including the establishment of its institutions, was recognized early by the General Assembly, which retained a regular annual item on the law of the sea subsequent to the adoption of the Convention in 1982 and assigned all relevant responsibilities to an organizational unit within the Secretariat, now the Division for Ocean Affairs and the Law of the Sea; moreover, throughout the years from 1983 to 1994, prior to the entry into force of the Convention, the General Assembly played a crucial role as steward of the Convention, monitoring important related developments and nurturing the emergence of the institutions of the Convention.

13. The oversight role of the General Assembly, as stressed in resolution 49/28, may be expected to assume yet greater significance with universal acceptance of the Convention and be further consolidated by the addition of the new law of the sea institutions to the wider group of international organizations responsible in various specialized aspects of ocean affairs, whose competence therein is affirmed and further reinforced by the Convention.

14. It will also be noted that the adoption of a new instrument to further develop and facilitate the implementation of the Convention in respect of the conservation and management of living marine resources, namely the 1995 Agreement on fish stocks, also has significant institutional implications for the system of ocean institutions, in that the General Assembly is called upon to monitor the implementation of this instrument as a distinct component of its ongoing review of the implementation of the Convention itself. Since the Convention contains a great number of basic provisions of a general and framework nature, similar developments of the law in other aspects is likely to occur in the future when such a need arises.

15. The Secretary-General wishes, therefore, to emphasize the importance of the "law of the sea" debate in the General Assembly, in relation not only to the development of the new treaty system of ocean institutions and the effective implementation of the Convention in all of its many aspects, but also for promoting international cooperation on important new issues in the field of law of the sea and ocean affairs. This role should also entail consideration as to the proper choice of intergovernmental forum for the discussion of issues of direct importance for the effective implementation of the Convention, as was emphasized also in the 1995 report of the Secretary-General on the law of the sea (A/50/713, paras. 7 and 8) and in his first report under article 319 of the Convention (SPLOS/6, paras. 32-36).

II. THE CONVENTION AND THE IMPLEMENTING AGREEMENTS

A. Status of the Convention

16. The United Nations Convention on the Law of the Sea entered into force on 16 November 1994. Between 15 October 1995 and 31 August 1996, 25 more States deposited their instruments of ratification or accession to the Convention, bringing the total number of States Parties to 106.[1]

17. In the short time since November 1994, the Convention has received 38 instruments of ratification, accession or succession. It is significant to compare this rate of acceptance with the 12 previous years, when 68 States consented to be bound by the Convention. Many recent acceptances are directly attributable to the adoption of the 1994 Agreement on Part XI and to the entry into force of the Convention. The goal of universal acceptance has almost been achieved and the Convention's important contributions to the steady development of the international law relating to the seas and oceans is everywhere apparent.

18. The provisions of the Convention on the Law of the Sea[2] have been further developed in two implementing Agreements:

(a) The Agreement relating to the implementation of Part XI of the Convention,[3] adopted in 1994, which is to be interpreted and applied together with the Convention as a single instrument. In the event of any inconsistency between the Agreement and Part XI of the Convention, the provisions of the Agreement shall prevail. Furthermore, after the adoption of the Agreement, any ratification or accession to the Convention represents also consent to be bound by the Agreement, and no State or entity can establish its consent to be bound by the Agreement unless it has previously established or establishes at the same time its consent to be bound by the Convention. Following the entry into force of the Agreement (on 28 July 1996), States that were parties to the Convention prior to the adoption of the Agreement now have to establish their consent to be bound by the Agreement separately, by depositing an instrument of ratification or accession.

(b) The Agreement for the Implementation of the Provisions of the Convention Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks,[4] adopted in 1995, is a separate instrument of a different nature. It greatly elaborates upon the general provisions of the Convention relevant to these matters, but has to be interpreted and applied in the context of and in a manner consistent with the Convention. There is no linkage between the Agreement and the Convention in establishing a consent to be bound by these instruments.

B. Status of the 1994 Agreement relating to the Implementation of Part XI of the Convention

19. As of 31 August 1996, 67 States had consented to be bound by the 1994 Agreement.[5] Pursuant to its article 6, the Agreement entered into force on 28 July 1996. Article 6 states that the Agreement shall enter into force 30 days after the date on which 40 States have established their consent to be bound, provided that this number includes at least seven of the States referred to in paragraph 1 (a) of resolution II of the Third United Nations Conference on the Law of the Sea[6] and that at least five of those States are developed States. With the ratification by the Netherlands, on 28 June 1996, those requirements were fulfilled.

20. A fundamental feature of the Agreement is its provisional application; this was done not only to facilitate universal acceptance of the Convention, but also to promote the viability of the International Seabed Authority by allowing for its provisional membership. States that are not parties to the Convention were also enabled to apply the Agreement provisionally. With the entry into force of the Agreement, this provisional application of the Agreement terminated.[7] However, States and entities that were applying it provisionally and for which it was not yet in force on the date of termination may continue to participate as members of the Authority on a provisional basis by sending a written notification to the depositary to this effect.[8] Eighteen States and the European Community notified the depositary of such intention.[9] It should be noted, however, that a number of States that had been applying the Agreement provisionally and which had not notified the depositary of their continued participation in the Authority, retain their membership in the Authority by virtue of being States Parties to the Convention.[10] Twenty-nine other States,

not being States Parties to the Convention and not having notified the depositary regarding the continuation of provisional membership, have ceased to be members of the Authority on a provisional basis as of 28 July 1996.[11]

21. The Agreement further provides that membership on a provisional basis, if continued after the entry into force of the Agreement, would terminate either on 16 November 1996 or upon the entry into force of the Agreement and the Convention for the member concerned, whichever is earlier. Furthermore, it empowers the Council of the Authority to extend, upon the request of the State or entity concerned, such membership beyond 16 November 1996 for a further period or periods not exceeding a total of two years, provided that the Council is satisfied that the State or entity concerned has been making efforts in good faith to become a party to the Agreement and the Convention.

22. At the resumed second session of the International Seabed Authority (5-16 August 1996), the Council decided to extend the provisional membership of Bangladesh, Nepal, Poland and the United States of America for a period of two years as from 16 November 1996. It also decided to extend the provisional membership of Canada for a period of one year as from 16 November 1996, as requested.[12] With regard to such extensions beyond 16 November 1996 for the remaining 13 States and the European Community which had notified the depositary of their intention to continue their provisional membership, the Council decided that those States or entities which submit requests for an extension of such membership prior to the next session of the Council shall be deemed to be members of the Authority on a provisional basis until the end of that next session in March 1997.[13]

C. Status of the 1995 Agreement on the conservation and management of straddling fish stocks and highly migratory fish stocks

23. The 1995 Agreement on fish stocks was adopted on 4 August 1995 by the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks. The period of signature will end on 4 December 1996. As of 31 August 1996, the Agreement had received a total of 47 signatures.[14] The Agreement will enter into force 30 days after the date of deposit of the thirtieth instrument of ratification or accession. As of 31 August 1996, Saint Lucia, Tonga and the United States of America had ratified the Agreement.

III. MEETINGS OF STATES PARTIES TO THE CONVENTION

24. The Meetings of States Parties to the Convention, convened by the Secretary-General in accordance with the relevant provisions of the Convention,[15] have been dealing primarily with the elections for and the budget of the International Tribunal on the Law of the Sea and with the establishment of the Commission on the Limits of the Continental Shelf.[16] The fourth and the fifth Meetings were held in New York from 4 to 8 March and from 24 July to 2 August 1996 respectively. The reports of those Meetings are contained in documents SPLOS/8 and SPLOS/14.

25. The sixth and seventh Meetings of States Parties to the Convention will be held in New York from 10 to 14 March 1997, and from 19 to 23 May 1997. The sixth Meeting will be devoted primarily to the election of the 21 members of the Commission on the Limits of the Continental Shelf, and the seventh Meeting to the budget of the Tribunal.

IV. ACTIONS TAKEN BY STATES

A. Maritime limits

26. According to the information available at the Secretariat as of 31 August 1996, the outer limits claimed by 146 coastal States to the various maritime zones,[17] are as set out in the table below. Of the total number of 151 coastal States, 5 have apparently no corresponding legislation (Bosnia and Herzegovina, Eritrea, Georgia, Slovenia and Federal Republic of Yugoslavia).

	Number of States
Territorial sea	
12 miles[18]	122
Less than 12 miles	8
More than 12 miles	15
(200 miles)	10
(20-50 miles)	5
Contiguous zone	
24 miles	50
Less than 24 miles	6
More than 24 miles	1
Exclusive economic zone	
200 miles	90
Up to a line of delimitation, by determination of coordinates, or without limits	10

(13 States claim a fishery zone of 200 miles and 4 States claim a fishery zone of less than 200 miles)

	Number of States
Continental shelf	
200-metre isobath plus exploitability criterion	35
Outer edge of continental margin, or 200 miles	28
200 miles	7
Others	13

27. In addition, a total of 17 States have claimed archipelagic status, although not all have specified archipelagic baselines.[19] Most recently, the Bahamas adopted legislation claiming such status and establishing baselines; and Jamaica is in the process of enacting archipelagic legislation.

B. Deposit of charts and lists of geographical coordinates and compliance with the obligation of due publicity

28. Under articles 16(2), 47(9), 75(2) and 84(2) of the Convention, "due publicity" is to be given by the coastal State Party to the Convention to charts or lists of geographical coordinates for baselines and outer limits of its various zones, and a copy of each such chart or list is to be deposited with the Secretary-General. Similarly, under article 76(9), the coastal State is to deposit with the Secretary-General charts and relevant information, including geodetic data, permanently describing the outer limits of its continental shelf, to which the Secretary-General shall give "due publicity".

29. In order to carry out the functions entrusted to the Secretary-General under the Convention and to respond to the request made by the General Assembly in resolution 49/28, paragraph 15, and resolution 50/23, paragraph 9, the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs, as the responsible substantive unit of the Secretariat, has established facilities for the custody of charts and lists of geographical coordinates deposited. The Division has also adopted a system for their recording and publicity: an internal computerized "data record" summarizes the information contained in the charts submitted, and to ensure publicity, the Division informs States Parties of the deposit of charts and geographical coordinates through a "Maritime Zone Notification". Such information is also included in the *Law of the Sea Information Circular* (LOSIC). This is a new publication, issued periodically, which provides relevant information on the implementation of the Convention, bearing in mind also the particular needs of those States not yet parties to it. A total of four LOSIC circulars have now been issued.

30. As of 31 August 1996, the following States Parties have deposited charts and lists of geographical coordinates with the Secretary-General: Argentina, China, Cyprus, Finland, Germany, Italy and Norway.[20]

31. The Division has sought to assist States also with other obligations of "due publicity" established by the Convention, which relate to legislation as well as charts. These concern navigation: all laws and regulations adopted by the coastal State relating to innocent passage through the territorial sea; all laws and regulations, adopted by States bordering straits relating to transit passage through straits used for international navigation; and the designation of sea lanes and prescription of traffic separation schemes, and their substitution, in the territorial sea and such straits, as well as the designation of sea lanes through and air routes over archipelagic waters and the prescription of traffic separation schemes, and their substitution.

32. In this regard, several communications have been issued by the Division: note verbale MZ/SP/1 on the deposit of charts, lists of geographical coordinates and geodetic data (articles 16(2), 47(9), 75(2), 76(9) and 84(2)); notes verbales TS/IP/SP/1 and SIN/TP/SP/1 on laws and regulations in relation to the territorial sea and straits (articles 21(3) and 42(3)); and note verbale SLTSS/SP/1 on the designation, prescription and substitution of sea lanes, traffic separation schemes and air routes (articles 22(4), 41(6) and 53(7) and (10)).

33. As at 31 August 1996, the following States Parties had submitted relevant information: Argentina (laws and regulations in straits), Australia (a sea lane and traffic separation scheme), Germany (a sea lane and traffic separation scheme), Italy (laws and regulations in the territorial sea and straits), Namibia (a sea lane and traffic separation scheme in the territorial sea), Marshall Islands (a sea lane through and air route above archipelagic waters) and Oman (a sea lane in a strait).[21]

C. National legislation

1. New legislation received by the Secretariat

34. The Division for Ocean Affairs and the Law of the Sea has received new legislation of Bahamas, China, Jamaica, New Zealand, South Africa and the Russian Federation:[22]

(a) Bahamas. The 1993 Archipelagic Waters and Maritime Jurisdiction Act of the Bahamas, which entered into force on 4 January 1996, covers archipelagic waters, internal waters, the territorial sea, innocent passage and the exclusive economic zone. The Act provides for archipelagic and other baselines, extends the outer limit of the territorial sea from 6 miles to 12 miles and establishes an exclusive economic zone of 200 miles; for the use of the median line where the territorial sea of the Bahamas meets with the territorial sea of another State, pending negotiations; and for the designation of archipelagic sea lanes and the prescription of traffic separation schemes. The Act also includes a definition of the right of innocent passage, along with the empowerment of law enforcement officers to stop, board, search and seize foreign ships when warranted;[23]

(b) China. On 15 May 1996, China issued a declaration regarding the establishment of straight baselines from which the breadth of the territorial sea is to be measured.[24] The Declaration announces part of the baselines of China's territorial sea adjacent to the mainland and those of the territorial sea adjacent to the Xisha Islands. Also to be noted is that, in its declaration made upon ratification of the Convention, China claims sovereign rights and jurisdiction over an exclusive economic zone of 200 miles and the continental shelf.[25] The Philippines and Viet Nam have protested the Declaration (see para. 35 (a));

(c) Jamaica. The Exclusive Economic Zone Act (Baselines) Regulations of Jamaica, promulgated on 12 October 1992, establishes charts with geographical coordinates defining the basepoints to be joined by straight archipelagic baselines around the mainland and the outlying islands of the Pedro and the Morant Cays of Jamaica;[26]

(d) New Zealand. New Zealand has established a contiguous zone of 24 miles, consistent with the Convention. This was done, on 26 July 1996, by an Act amending the Territorial Sea and Exclusive Economic Zone Act, 1977. This legislation, which entered into force on 1 August 1996, also introduces new circumstances for the drawing of straight baselines from which the breadth of the territorial sea is to be measured;[27]

(e) South Africa. South Africa has enacted the Maritime Zones Act of 1994, which repealed the Territorial Waters Act of 1963, the Territorial Waters Act (Transkei) of 1978 and the Territorial Waters Act (Ciskei) of 1986.[28] This Act came into effect on 11 November 1994 and includes 16 sections and 3 schedules which, inter alia, give the coordinates for straight baselines (schedule 2) and the limits of the continental shelf (schedule 3). The Act also applies to the Prince Edward Islands, which are located about 700 nautical miles south-east of South Africa in the Indian Ocean. The Act establishes a contiguous zone wherein South Africa may exercise its powers in relation also to damage to the marine environment. Of particular note is the provision in the Act for a new maritime area, a "maritime cultural zone", extending from the outer limits of the territorial sea to the outer limits of the contiguous zone, with the specification that the "same rights and powers as it has in respect of its territorial waters" apply over archaeological and historical objects in that new zone. This new legislation is a significant development in relation to the implementation of the relevant provisions of the Convention (articles 33 and 303) and to recent consideration at the international level of the possible need for a more extensively elaborated legal regime to govern the protection of these objects (see also paras. 142-147);

(f) Russian Federation. On 25 October 1995, the Russian Federation adopted an important comprehensive law, the Federal Law on the Continental Shelf of the Russian Federation.[29] It defines the continental shelf and continental margin as the prolongation of the land mass of the Russian Federation, which consists of the seabed and subsoil of the shelf, the slope and the rise. The outer edge of the shelf extends up to 200 miles or, if beyond, up to a distance determined in accordance with the rules of international law. The legislation establishes exclusive jurisdiction over, and outlines procedures with respect to, the exploration and exploitation of the continental shelf, and the construction and operation of artificial islands, installations and structures, including safety zones. Jurisdiction is also established with respect to the laying and use of submarine cables and pipelines, the conduct of marine scientific research, the protection and conservation of minerals and living resources. The new Federal Law also deals with dumping at sea; harvesting licences, permits fees and payments; enforcement; and settlement of disputes.

2. Protests and responses

35. Communications have been recently received by the Secretary-General in respect of the following legislation:

(a) China. The Philippines and Viet Nam have issued statements of protest against China's recent Declaration described above. The Philippines, on 17 May 1996, stated that they were "gravely concerned" over China's proclamation of baselines around the Paracels as well as the baselines for the sea adjacent to China's mainland. Viet Nam, on 6 June 1996, stated that China's establishment of territorial baselines around the Hoang Sa archipelago (Paracel) was "a serious violation" of Vietnamese sovereignty over that archipelago. Viet Nam also reaffirmed its sovereignty over the Truong Sa (Spratly) archipelago. This protest underscored that the drawing of baselines as established by China was not in conformity with articles 7 and 38 of the Convention;

(b) Iran (Islamic Republic of). A protest was filed by Germany, on behalf of the European Union, concerning the Act of 2 May 1993 on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and in the Sea of Oman.[30] The communication of 13 March 1996 of the Islamic Republic of Iran, made in response to this protest, stated, *inter alia*, that it did not consider all the provisions of the Convention to be customary in nature, and as contractual provisions, they were only binding on States parties.[31] Four other protests to the Iranian Act were filed by Saudi Arabia on 25 July 1996 (A/50/1028), the United Arab Emirates on 26 August 1996 (A/50/1033), Kuwait on 26 August 1996 (A/50/1029) and Qatar on 4 September 1996 (A/50/1034). Saudi Arabia stated that it neither recognized nor acknowledged any jurisdiction, powers or practices that were assumed or exercised pursuant to that Act, and objected to provisions which violated international law and practice, particularly those concerning international navigation. It did not recognize, therefore, any restrictions or impositions that would affect international navigation in the Gulf and the Sea of Oman, including passage through the Strait of Hormuz. Kuwait declared that it did not feel obligated to respect rules contained in the Iranian Act which were inconsistent with the international law of the sea and especially with the 1982 Convention on the Law of the Sea.

3. Regional review

36. Changes in the status of the Convention and main legislative developments over the past year are briefly reviewed on a regional basis, as follows:

(a) Africa. The situation has not changed very much since the last report (A/50/713, para. 31). Only two African States, Algeria and Mauritania,[32] have ratified the Convention compared to nine States from Asia[33] and 11 States from

Europe and North America.[34] With 32 States having ratified the Convention, Africa still has the highest number of ratifications, as well as the highest percentage of parties: 60.3 per cent. Algeria, in its second declaration made at the time of ratification, repeated the requirements contained in its legislation of 1963 and 1972 of prior authorization for the passage of warships in its territorial sea.[35] It should be noted that the Convention states that all ships, including warships, shall enjoy the right of innocent passage through the territorial sea; it also calls on coastal States not to hamper the innocent passage of foreign ships through the territorial sea except as provided for in the Convention (article 24);

(b) Asia and the Pacific. Three States Parties to the Convention - China, Japan and New Zealand - have modified their legislation so as to bring it into line with the Convention. In establishing its contiguous zone, redefining its continental shelf and proclaiming an exclusive economic zone, Japan has substantially modified its legislation to incorporate the relevant provisions of the Convention. The Japanese Diet adopted eight pieces of legislation essential for the implementation of both the Convention and the 1994 Agreement relating to Part XI;

(c) Latin America and the Caribbean. Three more States are now bound by the Convention (Argentina, Haiti and Panama) bringing to 23 the total number of States Parties for this region of 33 States. Among the 13 island States of the Caribbean, only the Dominican Republic still claims a territorial sea of 3 miles. The Bahamas, which used to have a 6-mile territorial sea, has just extended its seaward limits to 12 miles. Among the 18 States of Central and South America, Panama and 4 other States not yet parties to the Convention, namely Ecuador, El Salvador, Nicaragua and Peru, continue to claim a 200-mile territorial sea. In its statement made upon ratification of the Convention, Panama reaffirmed its exclusive sovereignty over the "historic Panamanian bay".[36] The Convention does not expressly recognize "historic bays (or titles)" but briefly mentions them in its article 10(6) in connection with straight baselines and in article 298 (1)(a)(i) concerning exceptions to the application of compulsory procedures which entail binding decisions. Other countries, such as Argentina, Brazil and Chile, have already rolled back their territorial sea claims to 12 miles. Uruguay, as a Party to the Convention, has set claims to the extent permitted by the Convention;

(d) Europe and North America. This region has seen the largest increase in ratifications and accessions to the Convention. Eleven States, five of which are members of the European Union, have deposited their instruments of ratification of or accession to the Convention.[37] Finland and Sweden reaffirmed in their declarations made upon ratification that the exceptions from the transit passage regime in straits provided for in article 35(c) of the Convention is applicable to the strait between those two countries, since in that strait the passage is regulated in part by a long-standing international convention in force.[38]

4. Harmonization with the provisions of the Convention

37. It is worth recalling that about half of the relevant legislation was adopted by coastal States between 1974 and 1979, at a time when all the compromises had not been finalized by the Third United Nations Conference on the Law of the Sea. Much of that legislation does not conform with the Convention, as finally adopted. It is to be noted also that the rate at which States are introducing or modifying legislation has not matched the recent rapid increase in the number of parties to the Convention.

38. The General Assembly, in its resolutions on the law of the sea, has repeatedly called on States to harmonize their national legislation with the provisions of the Convention and ensure their consistent application (e.g. resolution 50/23, para. 2). One area in which there would appear to be a widening gap is legislation on the continental shelf: of the 35 States that continue to claim a shelf based on the criteria contained in the 1958 Convention on the Continental Shelf (200-metre depth and exploitability), 21 are Parties to the 1982 Convention on the Law of the Sea.[39] These continuing claims are contrary to article 76 of the Convention, and to article 1 which defines the international seabed area. Another persistent inconsistency with the Convention are the claims of 15 States[40] for a territorial sea extending beyond 12 miles.

39. Among areas requiring closer harmonization with the Convention is the nature of the "jurisdiction" provided in article 56 with respect to the exclusive economic zone, as concerns marine scientific research, protection and preservation of the marine environment, and offshore structures and installations. The provision does not allow for "exclusive jurisdiction" in these areas, and yet much legislation does, particularly with respect to marine scientific research.[41] All such legislation merits review and harmonization with the provisions of the Convention, particularly in the case of States which are parties to the Convention.

40. In order to maintain an accurate and current database on national legislation on the law of the sea and related matters, the Secretary-General, in compliance with General Assembly resolutions 49/28 and 50/23, has circulated to all States a note verbale requesting them to communicate to him their relevant national legislation. So far, replies have been received only from Australia, the Bahamas, Belgium, New Zealand, Thailand, Tunisia, the United Arab Emirates and the United Kingdom of Great Britain and Northern Ireland. It is essential that such information be communicated to the Division so it can continue its efforts to monitor closely the implementation of the Convention by States and identify current trends in State practice.

D. Access to and from the sea

41. With respect to the interpretation of Part X of the Convention, concerning the right of access of landlocked States to and from the sea and the freedom of transit, mention should be made of declarations made upon accession and ratification of the Convention by Germany and the Czech Republic on 14 October 1994 and 21 June 1996, respectively.[42] Germany in its declaration states that transit through the territory of transit States must not interfere

with the sovereignty of those States and that the rights and facilities provided for in Part X must in no way infringe upon the sovereignty and legitimate interests of transit States. Further, the precise content of the freedom of transit has in each single case to be agreed upon by the transit State and the landlocked State concerned, and in the absence of agreement concerning the terms and modalities for exercising the right of access of persons and goods, transit through the territory of the Federal Republic of Germany is regulated only by national law, in particular with regard to ways and means of transport and the use of traffic infrastructure. The Czech Republic, on the other hand, states that the declaration by Germany cannot be interpreted with regard to the Czech Republic in contradiction with the provisions of Part X of the Convention.

42. Also to be noted is the reaffirmation by the General Assembly, in its resolution 50/97 of 20 December 1995, of the right of access of landlocked (developing) countries to and from the sea and freedom of transit through the territory of transit States by all means of transport, in accordance with international law. In the same resolution the Assembly also specifically welcomed the entry into force of the Convention.

V. ACTIONS TAKEN BY THE SECRETARY-GENERAL

A. Development of information systems and databases

43. The Division for Ocean Affairs and the Law of the Sea has continued to update and improve a computer-generated information system on national legislation relating to the law of the sea. The system currently contains national legislative acts from 144 States, as made available over the years to the United Nations, and is being continuously updated on the basis of submissions by States. As an ever increasing number of States are becoming Parties to the Convention and undergoing the process of harmonizing their national legislation with its provisions, the system will further expand. Ongoing improvements in the system have further strengthened the Division's capacity in monitoring the practice of States. Outputs from the system already serve as a useful tool for assisting States, particularly at the preparatory stage of their legislative process. The system is fully operational and the Division is able to respond to various queries by interested Governments and international organizations.

44. Pursuant to the General Assembly's call in resolution 49/28 for the development of "a centralized system with integrated databases for providing coordinated information and advice, inter alia, on legislation and marine policy", the Division has been consulting with the most concerned organizations of the United Nations system, beginning with FAO and IMO. The Division and FAO have already established an understanding as to the handling of computerized data and information obtained, through electronic transmission, from FAO databases on national fisheries legislation and agreements.

45. For wider and speedy dissemination of general information on the law of the sea, the Division has been using the United Nations Gopher, a part of the Internet, for more than 18 months. At its address, gopher://gopher.un.org:70/11/LOS, the menu "Law of the sea" provides Internet

users with many documents, including the full texts of the Convention, the 1994 Agreement on Part XI and the 1995 Agreement on fish stocks, together with information on their current status. Information on the Meetings of States Parties, the International Tribunal for the Law of the Sea and the International Seabed Authority are also available, as well as many other selected documents and press releases. On the basis of access statistics (about 1,000 inquiries a week), it may be concluded that the Law of the Sea menu at the United Nations site has become a convenient and reliable resource for permanent missions to the United Nations, various government departments, universities, intergovernmental organizations, non-governmental organizations and the interested public.

46. The Division is about to launch its own home page within the United Nations Home Page. Located at

http://www.un.org/depts/los

it will have a content similar to that of the Gopher but will be more graphical and "interactive". This will provide a more attractive option for advanced users and will also allow for the use of the United Nations server search menu option in order to speed access to the specific information and provide customized outputs.

47. While the focus of its activities in this area is on marine policy and law, including national legislation, the Division continues to support, as a co-sponsoring partner, the maintenance and development of the Aquatic Sciences and Fisheries Abstracts (ASFA), an international bibliographical information service. As an ASFA input centre, the Division monitors documents and publications relating to the law of the sea and other marine-related activities, including ocean technology, policy and non-living resources from which abstracts, bibliographical data and index entries are prepared for inclusion in the ASFA computer-searchable database and CD-ROM and the corresponding ASFA monthly journals.

B. Support for dispute settlement mechanisms

48. As part of its dispute settlement mechanisms, the Convention provides for the procedures of conciliation, arbitration and "special arbitration".

49. The arbitral tribunal consists of five members who may be chosen from a list of arbitrators drawn up and maintained by the Secretary-General of the United Nations in accordance with article 2 of annex VII. The following nominations have been received as at 31 August 1996 for the States Parties indicated: Renate Platzöder (Germany); M. S. Aziz, P. C., S. Sivarasan, P. C., C. F. Amerasinghe and A. R. Perera (Sri Lanka); Sayed Shawgi Hussain and Ahmed Elmufti (Sudan).

50. The conciliation commission consists of five conciliators chosen from a list of conciliators drawn up and maintained by the Secretary-General in accordance with article 2 of annex V. As at 31 August 1996, only one State Party, the Sudan, had submitted the nominations of Dr. Abd ElRahman Elkhalifa and Sayed Eltahir Hamdalla.

51. As regards special arbitration, in accordance with article 2 of annex VIII, the following international organizations are required to draw up lists of experts in their specialized field and to send a copy of the lists to the Secretary-General of the United Nations: in the field of fisheries, FAO; for protection and preservation of the marine environment, the United Nations Environment Programme (UNEP); for marine scientific research, IOC; for navigation, including pollution from vessels and by dumping, IMO; or in each case by the appropriate subsidiary body concerned to which such organization, programme or commission has delegated this function.

52. The Secretary-General has received lists from FAO and IMO, and an updated list from IOC. A list has not yet been received from UNEP. The lists maintained by IMO, FAO and IOC currently contain experts from the following countries:[43]

(a) IMO list. Bahrain, Bolivia, Cameroon, Cook Islands, Egypt, Fiji, Greece, Guinea, Italy, Mexico, Nigeria, Samoa, Sierra Leone, Singapore, Slovenia, Togo and Uganda;

(b) FAO list. Bahrain, Cyprus, Egypt, Iraq and Uruguay;

(c) IOC list. Argentina, Brazil, Bulgaria, Cameroon, China, Cuba, Finland, Georgia, Italy, India, Iraq, Jordan, Kuwait, Lebanon, Mauritius, Nigeria, Senegal, Saint Lucia, Sudan, Tunisia and Ukraine.[44]

53. The names of the experts are available from the IMO, FAO and IOC secretariats as well as from the Division for Ocean Affairs and the Law of the Sea.

VI. DEVELOPMENTS CONCERNING THE INSTITUTIONS CREATED BY THE CONVENTION

54. Member States may wish to recall that the Convention provides for specific linkages among the institutions of the Convention: between the International Seabed Authority and the International Tribunal for the Law of the Sea as concerns seabed disputes; and between the Authority, the Secretary-General of the United Nations and the Commission on the Limits of the Continental Shelf as concerns the delimitation of the national and international areas of the seabed. The linkages between these institutions, and the overarching role of the General Assembly with respect to the implementation of the Convention, is further demonstrated in the decision of the Assembly of the Authority to seek observer status at the General Assembly, and in the consideration given by the Meeting of States Parties to the need for the Tribunal to report to the General Assembly. These linkages will need to be specifically addressed in the relationship agreements yet to be concluded between the Authority and the United Nations and the Tribunal and the United Nations.

55. Consistent with its programmed activities, the relevant General Assembly resolutions and the decisions of the Meetings of States Parties, the Division for Ocean Affairs and the Law of the Sea has continued to provide support to the new institutions established under the Convention.

A. International Seabed Authority

56. The International Seabed Authority, established by the Convention, with its seat at Kingston, Jamaica, is the organization through which its members shall organize and conduct activities of exploration for, and exploitation of, the resources of the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction (the Area), particularly with a view to administering the mineral resources. The membership comprises States Parties to the Convention and States non-parties that have consented to apply the 1994 Agreement on Part XI of the Convention provisionally (see paras. 19-22).

57. The current period has been particularly important for this new international organization: the principal organs of the Authority - the Assembly, the 36-member Council and the Secretariat - have all been established, together with the subsidiary expert bodies, and the organizational work required to assume the substantive functions entrusted to the Authority by Part XI of the Convention and by the 1994 Agreement has been initiated.

58. The Assembly of the Authority held its first session in three parts: from 16 to 18 November 1994, from 27 February to 17 March 1995, and from 7 to 18 August 1995. Its second session was held in two parts: from 11 to 22 March 1996 and from 5 to 16 August 1996. The Assembly, the Council and the subsidiary bodies will meet from 17 to 28 March and from 18 to 29 August 1997.

59. The membership of the Council, elected by the Assembly at its second session, comprises four groups representing four sets of special interests, as well as a group reflecting the principle of equitable geographical distribution. The four special interest groups are consumers/importers of the minerals that could be supplied from deep seabed sources (4 seats); investors in deep seabed mining (4 seats); producers/exporters of such minerals from land-based sources (4 seats); and developing States representing special interests (6 seats); a further 18 seats were allocated to meet the requirements of equitable geographical balance in the representation of the five regional groups.[45]

60. This complex composition of the Council and the application of a multiplicity of previously agreed criteria had given rise to severe problems. Before a final solution could be found which would meet the requirements both with respect to the four special interest groups and the overall geographical balance, there were many highly contested elements to be accommodated. Many possible variants were proposed for the implementation of the criterion of "ensuring equitable geographical distribution of seats in the Council as a whole".[46] Up until the very last, the total of the seats demanded by the five regional groups continued to stand at 3[illegible], which was one seat too many for the composition decreed by the Convention. Finally, a unique scheme was devised consisting of a "floating seat", combined with "burden sharing", by which each region would in turn give up one seat every year, except for the Eastern European Group which had three seats. This arrangement will apply for the initial four-year period.

61. During the second session also, the Assembly elected Mr. Satya N. Nandan (Fiji) as the Secretary-General of the Authority. The Secretary-General has taken office, together with a nucleus of staff.

62. During the resumed second session, a 15-member Finance Committee and a 22-member Legal and Technical Commission were established. The Finance Committee reviewed the proposed budget of the Authority submitted by the Secretary-General of the Authority, and on the basis of its recommendations, which were endorsed by the Council, the Assembly adopted a budget of the Authority for 1997. It totals $4.1 million, including the costs of 30 posts - 15 posts at the Professional level and above, and 15 posts at the General Service level.[47] The budget for 1997 takes account of the need to initiate the substantive work programme of the Authority after the initial organizational matters are completed.[48]

63. It will be recalled that, pursuant to section 1, paragraph 14, of the annex to the 1994 Agreement on Part XI, the budgetary requirements of the Authority for 1997 shall be met through the regular budget of the United Nations. The Secretary-General of the Authority has accordingly submitted the budget of the Authority for 1997, as approved by its Assembly, to the United Nations.[49]

64. A number of organizational matters have also been addressed by the Assembly and the Council of the Authority, and decisions have been taken concerning the extension of the provisional membership of States that have yet to ratify or accede to the Convention and the Agreement; the finalization of the Headquarters Agreement with the Government of Jamaica and the relationship agreement with the United Nations; and application for observer status for the Authority at the United Nations.[50] On this last matter, a number of Member States have submitted a proposal to the General Assembly concerning the observer status of the Authority (A/51/231). Certain staff arrangements, e.g., participation in the United Nations Joint Staff Pension Fund, have also been addressed.[51]

B. International Tribunal for the Law of the Sea

65. The International Tribunal for the Law of the Sea has now been constituted with the election of its 21 members, and its initial budget has been approved by the States Parties. The judges held their first, executive session from 1 to 30 October 1996, and were sworn in on 18 October at an inaugural session of the Tribunal at its seat at Hamburg, Germany.

66. In accordance with the decision of the Meeting of States Parties, the United Nations Legal Counsel has designated an officer from the Division for Ocean Affairs and Law of the Sea to be in charge of the Registry from 1 August 1996 until the Tribunal appoints its Registrar. Preparations have reached an advance stage: an interim office for the Registry has been opened; initial staff have been recruited; the temporary premises provided by the host country are being handed over to the Tribunal; and a library is being established with the support of the Friends of the Tribunal, a non-governmental organization.[52]

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67. The Tribunal, as a matter of priority, will be proceeding with negotiations on relationship arrangements with the United Nations and the International Seabed Authority,[53] and on the Headquarters Agreement with Germany.

1. Election of the judges

68. The election of the judges took place on 1 August 1996 during the fifth Meeting of States Parties.[54] The election had been postponed until that time by the first Meeting of States Parties in 1994.[55]

69. The Statute of the Tribunal (annex VI of the Convention), in article 3, paragraph 2, provides that there shall be no fewer than three judges from each geographical group as established by the General Assembly of the United Nations. There being five such regional groups, the Meeting had to find a fair and reasonable way to fill the six remaining seats. The problem was compounded by the fact that one of the candidates was a national of a country that was not a member of any such group. The solution was to distribute seats as follows: African Group (5); Asian Group (5); Latin American and Caribbean Group (4); Western European and Other States Group (4); and Eastern European Group (3). The decision also provided that the candidate who did not belong to any regional group would, if elected, come within the allocation of the Western European and Other States Group.

70. The Meeting of States Parties elected the 21 judges of the Tribunal from the list of 33 candidates.[56] They will serve for periods of three, six or nine years,[57] as follows: for the three-year term, Joseph Akl (Lebanon), Paul Bamela Engo (Cameroon), Anatoly Kolodkin (Russian Federation), Vicente Marotta Rangel (Brazil), P. Chandrasekhara Rao (India), Joseph S. Warioba (United Republic of Tanzania) and Rüdiger Wolfrum (Germany); for the six-year term, Hugo Caminos (Argentina), Gudmundur Eiriksson (Iceland), Edward A. Laing (Belize), Tafsir Ndiaye (Senegal), Tullio Treves (Italy), Alexander Yankov (Bulgaria) and Lihai Zhao (China); for the nine-year term, David H. Anderson (United Kingdom), Mohamed Marsit (Tunisia), Thomas A. Mensah (Ghana), L. Dolliver Nelson (Grenada), Choon-Ho Park (Republic of Korea), Budislav Vukas (Croatia) and Soji Yamamoto (Japan).

71. The judges may be re-elected in accordance with the Convention. They are also required to continue to discharge their duties after the expiry of their terms of office until their vacant places have been filled; and even after they are replaced, they shall finish any proceeding which they may have begun before the date of their replacement.[58]

2. Budget of the Tribunal

72. The budget of the Tribunal for the initial period (August 1996-December 1997) was adopted by the fourth Meeting of States Parties (4-8 March 1996).[59] It also takes account of start-up costs incurred from April to July 1996, which could not be met by the Office of Legal Affairs, as originally requested, in view of the reduction in United Nations budget

appropriations. The Meeting adopted the budget and related matters by consensus.

73. It was also decided that the States Parties should pay 15 per cent of their assessed contribution in advance to enable the Secretariat to undertake preparatory work in Hamburg for the setting up of the Tribunal. A provisional scale of assessments, including both the current States Parties and States likely to be parties by 1 August 1996, was drawn up by the fourth Meeting for this purpose[60] and was later revised to accord with actual participation in the Convention on that date. States Parties were required to pay their assessed contribution for 1996 in full by 15 August, and for 1997, by 15 January 1997; adjustments to these assessments are made according to the increases in the numbers of States Parties.

74. The Tribunal has been authorized to establish its own financial rules and regulations, to be submitted to the Meeting of States Parties for its consideration and approval. In the meantime, the Financial Regulations of the United Nations will apply.[61]

3. Other matters

75. The Meeting of States Parties has not been able as yet to complete its consideration of the draft agreement on the privileges and immunities of the Tribunal[62] and will return to the matter at its next meeting in March 1997.

76. The fifth Meeting of States Parties agreed that, although the report of the Secretary-General under article 319 of the Convention and his annual comprehensive report prepared for the General Assembly under the agenda item on the law of the sea should cover the activities of the Tribunal to some extent, the Tribunal should also be encouraged to present a report on its work directly to the Meeting of States Parties. The Meeting also recognized that since the proceedings of the General Assembly were of interest to the Tribunal, it should be appropriately represented at its sessions and should apply for observer status.

C. Commission on the Limits of the Continental Shelf

77. The purpose of the Commission is to facilitate the implementation of the Convention in respect of the establishment of the outer limits of the continental shelf beyond 200 miles from the baselines from which the breadth of the territorial sea is measured; its recommendations and actions shall not prejudice matters relating to the delimitation of boundaries between States with opposite or adjacent coasts. The relevant provisions are those contained in article 76 and annex II of the Convention.

78. As set forth in article 3 of annex II, the functions of the Commission are:

(a) To consider the data and other material submitted by coastal States concerning the outer limits of the continental shelf extending beyond 200 nautical miles, and to make recommendations in accordance with article 76 and

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the Statement of Understanding adopted on 29 August 1980 by the Third United Nations Conference on the Law of the Sea;[63]

(b) To provide scientific and technical advice, if requested by the coastal State concerned during preparation of such data.

79. It should be recalled that the functions of the Preparatory Commission for the International Seabed Authority and the International Tribunal on the Law of the Sea (1983-1995) did not include preparations for the Commission on the Limits of the Continental Shelf. The Meetings of States Parties, therefore, provide the first concrete opportunity for States to consider the implementation of the Convention in this regard, including in particular its provision requiring a coastal State to make its submission to the Commission within 10 years of the entry into force of the Convention for that State.

80. In an effort to prepare the Commission for its work, and without prejudice to the decisions it may take, the Division for Ocean Affairs and the Law of the Sea has attempted to identify some of the issues that will need to be addressed by the Commission when it begins examination of the submissions of coastal States. The Division convened a meeting of a representative group of experts from 11 to 14 September 1995 in order to discuss certain technical and scientific aspects of the work of the Commission. On the basis of those discussions, the Division prepared a study entitled "Commission on the Limits of the Continental Shelf: Its functions and scientific and technical needs in assessing the submission of a coastal State", which was submitted to the fifth Meeting of States Parties for its information.[64]

81. The Commission on the Limits of the Continental Shelf will be established at the sixth Meeting of States Parties, to be held at United Nations Headquarters from 10 to 14 March 1997. The Commission will consist of 21 members, serving in their personal capacities, who are experts in geology, geophysics or hydrography; they will be elected by States Parties from among their nationals, with due regard to the need to ensure equitable geographical representation.

82. The first election of the members of the Commission was to have been held within 18 months after the date of entry into force of the Convention (annex II, article 2(2)), i.e., before 16 May 1996. However, at the third Meeting of States Parties (27 November-1 December 1995), it was agreed that the election would be postponed until March 1997. In view of the 10-year time limit for submissions to the Commission (article 4 of annex II), the Meeting of States Parties also added the proviso that should any State that was already a Party to the Convention by 16 May 1996 be affected adversely in respect of its obligations under this provision as a consequence of the change in the date of the election, States Parties, at the request of such a State, would review the situation with a view to ameliorating the difficulty in respect of that obligation.[65]

83. The Secretariat has since suggested a revised schedule for nomination and election of the members of the Commission.[66] Candidates may be nominated from 11 November 1996 to 5 February 1997. A State in the process of becoming a party may also nominate a candidate, but this will remain provisional until its

instrument of ratification or accession is deposited, which would need to be done on or before 5 February. The list of candidates will be circulated by the Secretary-General on 14 February 1997. The first election will commence on 13 March 1997. All other procedures relating to the election of the members of the Commission as provided for in annex II of the Convention will apply. States Parties, at their fifth Meeting, approved this schedule and also decided that no changes will be made to the schedule unless agreed to by consensus.

84. At the request of the fifth Meeting of States Parties, the Division also prepared the draft Rules of Procedure of the Commission, issued on 26 July 1996.[67]

VII. LEGAL DEVELOPMENTS UNDER RELATED TREATIES AND INSTRUMENTS AND RELATED ACTIONS OF INTERNATIONAL ORGANIZATIONS AND BODIES

A. IMO conventions and instruments

1. Main developments

85. Steady progress has been made by Governments in ratifying the various IMO conventions, on which the United Nations Convention on the Law of the Sea is greatly dependent for the implementation of its provisions concerning navigation and the prevention of pollution from ships and from dumping. There remain only 5 out of 36 IMO conventions which are not yet in force.[68]

86. The following instruments have recently entered into force:

(a) The 1989 International Convention on Salvage (on 14 July 1996);

(b) The 1992 Protocols to the 1969 International Convention on Civil Liability for Oil Pollution Damage (CLC Convention) and the 1971 International Convention on Establishment of the International Fund for Compensation for Oil Pollution Damage (FUND Convention) (on 30 May 1996). They more than double the amount of compensation possible, extend the scope of application of the parent treaties to the exclusive economic zones of contracting States, and introduce a more expeditious system of amending the limitation amounts by the IMO Legal Committee;

(c) The 1994 amendments to chapters VI and VII of the 1974 International Convention for the Safety of Life at Sea (SOLAS 74) (on 1 July 1996);[69]

(d) The 1994 amendments to chapter V of SOLAS 74 (on 1 January 1996).[70] They include a new regulation 8-1 in chapter V on the procedures for the adoption of ship reporting systems;

(e) The 1994 amendments to SOLAS 74 adopted by resolution I (annex I) of the 1994 Conference of Contracting Governments (on 1 January 1996). They include a new chapter X regulating safety measures for high-speed craft and a new chapter XI on special measures to enhance maritime safety, such as the obligation to insert an IMO ship identification number on the ship's certificates, and port State control of operational requirements. Resolution I (annex II) contains a new chapter IX on the management for safe operation of ships;

(f) The 1994 amendments to the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (the STCW Convention), replacing the text of its chapter V on training (on 1 January 1996);[71]

(g) The 1993 amendments to the 1972 Convention on the International Regulations for Preventing Collisions at Sea (COLREG) (on 4 November 1995);[72]

(h) The 1994 amendments to the Protocol of 1978 relating to the 1973 International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), relating to its annexes I, II, III and V (on 3 March 1996). The amendments extend port State control to operational requirements regarding the prevention of marine pollution from ships.

87. The following recent amendments and new instruments have been adopted:

(a) The 1996 International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea and the 1996 Protocol to amend the Convention on Limitation of Liability for Maritime Claims;

(b) The 1995 amendments to the SOLAS Convention aimed at enhancing the safety of ro-ro passenger ships (expected to enter into force on 1 July 1997);[73]

(c) The 1996 amendments to SOLAS chapters II-1, III, VI and XI (expected to enter into force on 1 July 1998);

(d) The 1996 amendments to annex V (garbage) of MARPOL 73/78, providing a basis for the enforcement of the requirements of annex V and adding new regulations (expected to enter into force on 1 July 1997).[74]

88. A number of new instruments and amendments are also under consideration in the relevant IMO bodies. A draft new annex VI to MARPOL 73/78, concerning air pollution, is scheduled to be adopted at the end of 1997.[75] A draft convention on wreck removal is being considered by the Legal Committee; it is also looking at the feasibility of a new convention on offshore mobile craft based on the ongoing work of the Comité Maritime International (CMI). This has been given a low priority in the work programme, however, owing to other more urgent items and some concerns that such a comprehensive instrument on offshore structures might exceed the competence of IMO.[76] The IMO/United Nations Conference on Trade and Development (UNCTAD) Joint Intergovernmental Group of Experts on Maritime Liens and Mortgages and Related Subjects has started to consider a new draft convention on the arrest of seagoing ships, in the light of the 1993 Convention on Maritime Liens and Mortgages. Finally, the Maritime Safety Committee (MSC) has decided to review the International Convention on Maritime Search and Rescue (SAR), 1979, with a view to updating its provisions and to facilitating its wider acceptance by Governments.[77]

89. In response to the considerable concern about the safety of bulk carriers, the IMO Assembly in 1995 adopted resolution A.797(19) on safety of ships carrying solid bulk cargoes (see A/50/713, para. 218) and resolution A.798(19) on guidelines for the selection, application and maintenance of corrosion-prevention systems of dedicated seawater ballast tanks. Work in this area has high priority for the MSC; amendments to SOLAS for the purpose of enhancing the safety of bulk carriers are scheduled to be adopted next year.[78]

90. The Marine Environment Protection Committee (MEPC), as IMO's focal point for follow-up actions for the United Nations Conference on Environment and Development (UNCED), adopted by resolution MEPC.67(37) entitled "Guidelines on incorporation of the Precautionary Approach in the context of specific IMO activities", on an interim basis until further experience with their application has been gained. The guidelines will be applied to the work of MEPC in the first instance. Based upon the experience gained, their application could be extended to the work of other Committees. The guidelines set forth a decision-making and management framework for incorporation of the precautionary approach in the programmes and activities of IMO.[79]

Impact of the entry into force of the United Nations Convention on the Law of the Sea

91. Specific steps have also been taken to review IMO conventions and instruments in the light of the entry into force of the Convention and to ensure that IMO can respond appropriately, particularly in its capacity as the sole "competent international organization" under the Convention in respect of maritime safety and the prevention of pollution from ships. The IMO Council had agreed on the importance of ensuring a consistent and coordinated approach to the implementation of the Convention, as requested by the General Assembly in its resolution 49/28, and decided to update a study prepared in 1987 on the implications of the Convention for IMO, as well as to keep the present arrangements for communication and exchange of information with the United Nations Division for Ocean Affairs and the Law of the Sea under review. The decisions of the Council were conveyed to the IMO Assembly at its nineteenth session.[80]

2. Issues of compliance, control and enforcement

92. Over the last two years, IMO has adopted numerous measures aimed at enhancing maritime safety by improving ship design, construction, maintenance and equipment, as well as ship operations and management. To address the continuing problem of the ageing world fleet, the Maritime Safety Committee, together with the Marine Environment Protection Committee, has approved interim guidelines for the systematic application of the "grandfather clause" (an IMO practice by which a rule applies only to ships built on or after the date of its entry into force), thus providing a strategy for avoiding undue gaps in standards between new and existing ships, and eventually producing equivalent standards.[81] (The 1995 amendments to SOLAS had already accomplished this for ro-ro passenger ships.)

93. Most accidents and incidents at sea are caused by human error and/or mismanagement, rather than by inadequacies in the instruments concerned. The series of major amendments adopted in 1994 and 1995 to the SOLAS Convention and the STCW Convention (see paras. 87-88) represent a major attempt to overcome these problems. In a wider sense, these amendments also aim at strengthening flag State implementation, port State control and the role of management.

94. Particular attention is drawn to the amendments to SOLAS chapter XI on special measures to enhance maritime safety, now in force. They require flag States, which authorize recognized organizations acting on their behalf to carry out the surveys and inspections required of them under a number of IMO Conventions (SOLAS, 1966 Load Lines Convention, MARPOL 73/78, and 1969 Tonnage Convention), to comply with the guidelines adopted in 1993;[82] subject bulk carriers and oil tankers to the enhanced programme of inspection in accordance with the guidelines adopted in 1993;[83] require all ships of 100 gross tonnage and above and all cargo ships of 300 gross tonnage and above to be provided with an identification number conforming to the IMO ship identification number scheme, adopted in 1987;[84] and make it possible for port State control officers inspecting foreign ships to check operational requirements "when there are clear grounds for believing that the master or crew are not familiar with essential shipboard procedures relating to the safety of ships" (regulation 4).

Flag State implementation and compliance

95. Since the International Safety Management Code will become mandatory on 1 July 1998 by virtue of the entry into force of SOLAS chapter IX on management for the safe operation of ships, the IMO Assembly in 1995 adopted guidelines for its implementation by Administrations (resolution A.788(19)). A second resolution (A.789(19)) contains minimum specifications for organizations recognized as capable of performing statutory work on behalf of the flag State Administration, in terms of certification and survey functions connected with the issuance of international certificates. SOLAS was amended to make the specifications mandatory.[85]

96. Standards of vessel operation still vary considerably: some shipowners accept their responsibilities and conduct their operations with integrity at the highest level; others move their ships quite deliberately to different trading routes, when Governments introduce stricter inspections and control. The Organisation of Economic Cooperation and Development (OECD) has called particular attention to the fact that owners and operators of substandard ships are able to operate at an unfair competitive advantage, amounting to as much as a 13 to 15 per cent saving on the annual running cost.[86] IMO has also noted in the past that some Governments readily accept the fees for registering ships under their flag, but fail to ensure that safety and environmental standards are enforced.[87]

97. Some Governments have been unable to implement measures as rigorously as is necessary to achieve the level envisaged in the conventions and which the maritime world expects. The IMO Subcommittee on Flag State Implementation has been reviewing Assembly resolution A.740(18) containing interim guidelines to assist flag States in the implementation of IMO instruments, including guidance on the infrastructure, personnel and capabilities necessary.

98. Doubts have been expressed in the Subcommittee about the sufficiency of the present, non-mandatory resolution (A.740(18)) to ensure compliance by the flag State with safety and pollution prevention conventions, and thus discourage substandard shipping. A suggestion was to develop a new binding instrument to set out clearly the responsibilities of flag States and the criteria for assessing their operation, to focus technical cooperation activities on those States unable to comply with the agreed criteria made; and to identify measures, including sanctions, to ensure that States fulfil their responsibilities as flag States.[88]

99. Another suggestion was to examine the existing legal possibilities provided through the United Nations Convention on the Law of the Sea for strengthening flag State responsibilities and for responding to any shortcomings in the performance of flag States.[89] It was proposed that IMO could adopt a set of measures for concrete and practical implementation of that aspect of the law of the sea rule on suspension of proceedings against the flag State, which allows the coastal State to pursue the proceedings in cases where the flag State has repeatedly disregarded its obligations (see article 228(1)). Criteria are suggested for assessing repeated violations by a flag State, e.g., an above-average record of deficiencies detected by port States, and disregard of its obligation under article 217(6). It would be important also, it was suggested, to take account of bareboat chartering, noting that the Convention distinguishes (e.g., in articles 211(2) and (3) and 217(1) to (3)) between a flag State and a State in whose registry a vessel may have been entered.[90]

Port State control

100. Increasing failures by some flag States to effectively implement and enforce international standards for safety and pollution prevention has greatly strengthened the role of port State control as a policing mechanism for the shipping industry and a "safety net" for the flag State.

101. With SOLAS chapter XI now in force, port States can not only monitor compliance with applicable maritime safety and pollution-prevention standards, but also assess the ability of ships' crews to perform essential shipboard procedures. In addition, in 1995, the IMO Assembly amalgamated all previous Assembly resolutions on port State control in a new resolution (A.787(19)), making it easier to apply the relevant procedures of SOLAS, the 1966 Load Line Convention, MARPOL 73/78, the 1978 STCW Convention and the 1969 Tonnage Measurement Convention. The resolution defines, inter alia, the terms "clear grounds", "detention" and "inspection" of ships, and "valid certificates". It further provides guidelines for the detention and inspection of ships, for discharge requirements under annexes I and II of MARPOL and for control of operational requirements.[91]

102. Port State control in Europe continues to be intensified. The 1995 European Council directive 95/21/EC on port State control (in force on 1 July 1996) requires each member State to carry out a total number of inspections corresponding to at least 25 per cent of the number of ships entering its ports during the year. Certain categories of ships, e.g., oil tankers within five years or less of being phased out, will be subject to an expanded inspection. Deficiencies which are clearly hazardous to safety, health

or the environment will lead to detention or stoppage of an operation and will not be lifted until the hazard is removed or until the ship can proceed, having fulfilled any necessary conditions. Where an inspection gives rise to detention, the port State must notify the flag State of all the circumstances in which intervention was deemed necessary. All costs of inspecting a ship which warrant detention are to be borne by the owner or the operator.[92] The 1982 Paris Memorandum of Understanding will be extensively amended in order to align it with the provisions of this 1995 directive,[93] and the European Parliament has called for its rigorous enforcement in order to eliminate substandard vessels from European waters. The European Parliament has also called on the Council to accept the introduction of a European ship register, EUROS, for ships flying flags of the States members of the European Union, including financial incentives to use it.[94]

103. A new regional Memorandum of Understanding on port State control was concluded among the maritime authorities of 20 Caribbean States and Territories in Barbados on 9 February 1996. It is practically identical to the other Memorandum of Understandings (the Paris Memorandum of Understanding in Europe, the Tokyo Memorandum of Understanding in the Asia-Pacific region, and the Viña del Mar Agreement in Latin America, all of which are now in force), but also covers inspections on smaller ships which trade mainly within the region. Barbados will provide the regional secretariat. The needs in the region are more comprehensive than the institution of port State control, and concern also the lack of adequate maritime administrative infrastructure, of national legislation to implement the requirements of international maritime conventions, and trained personnel at all levels. IMO efforts and those of donor Governments will continue.

104. Other such regional agreements on port State control are under preparation in the eastern and southern Mediterranean, the Persian Gulf area, West and Central Africa, and the East Africa and Indian Ocean region.[95] The Tokyo Memorandum of Understanding has now been accepted by 17 maritime authorities, and a 30 per cent annual rate has been achieved on the inspection of ships visiting ports in the Asia-Pacific region.

Enforcement by port and coastal States

105. The IMO ship identification numbering scheme, now mandatory, will support the effective enforcement of mandatory ship reporting systems, routing systems and pollution prevention measures. Easier identification of ships contravening mandatory systems, or discharge limits, will provide coastal States with better evidence to support legal actions against contraventions.[96]

106. There have been increasing calls to strengthen enforcement in respect of vessels which have violated internationally applicable discharge criteria. Recent reports by some port States suggest that violations of MARPOL 73/78 provisions referred to flag States have not been prosecuted effectively or to the satisfaction of the port State. Many of these port States have taken a more aggressive enforcement posture; some have extended their jurisdictional reach by prosecuting violations within their exclusive economic zone rather than just within the territorial sea and have increased the severity of sanctions against ships flying the flags of other countries.[97]

107. The mandatory annual reports on non-compliance with MARPOL 73/78 for 1994, submitted by 23 countries, show that there has been a dramatic increase in the number of ships boarded for port State control (from 27,040 in 1993 to 52,806 in 1994), and in the total number of ships detained in ports or denied entry (from 117 in 1993 to 468 in 1994).[98]

Regional developments

108. In 1995, the States bordering the North Sea agreed to develop common procedures, through a legal instrument and/or other cooperative arrangement, to harmonize the exercise of flag State, port State and coastal State powers of enforcement, taking into account the relevant provisions of the United Nations Convention on the Law of the Sea.[99] They also agreed to work within the Bonn Agreement (1969 Agreement for Cooperation in Dealing with Pollution of the North Sea by Oil and other Harmful Substances) to use aerial surveillance as a more effective deterrent against illegal discharges.[100] In their proposal to IMO to designate the North Sea and its western approaches as a special area under annex I of MARPOL 73/78, the North Sea States have reported on the impacts of continuous operational discharges, legal and illegal, in the region, e.g., illegal discharges of oil exceeding 50 parts per million have been detected in the major shipping corridor between the Strait of Dover and the German Bight.[101]

109. Similar action to substantially decrease operational discharges and to eliminate the illegal disposal of ships' wastes has been taken by the Baltic States. The recently adopted Baltic Strategy for Port Reception Facilities for Ship-generated Wastes and Associated Issues aims to improve implementation of MARPOL regulations and those of the 1974 and 1992 Helsinki Conventions. Recommendation 17/11, adopted by the Helsinki Commission in March 1996, forms part of the Strategy and recognizes the importance of applying an effective, harmonized penal system having a deterrent effect on illegal operational discharges, thereby encouraging the use of reception facilities.[102]

Air pollution from ships

110. Questions have been raised as to what enforcement regime, consistent with the United Nations Convention on the Law of the Sea, would apply to the new annex VI on air pollution to MARPOL 73/78, which will be adopted in 1997. It may be noted that articles 194(3)(a), 212 and 222 of the Convention refer only to the prevention of pollution of the marine environment from or through the atmosphere, and do not address pollution of the atmosphere that does not cause pollution of the marine environment. While the substances to be regulated by annex VI are viewed as atmospheric pollutants, the new annex will also regulate their discharge into the marine environment. It will be necessary to decide what inspection and enforcement regime is desired for annex VI that is consistent with the Convention.[103] It has also been suggested that the new annex VI should generally be interpreted and applied consistent with international law, including the relevant provisions of the Convention.[104]

B. Rules regarding navigation

111. The rules regarding navigation, as set forth in the Convention, have particular importance in other contexts, also including in particular those affecting peace and security. It is to be noted, therefore, that the Treaty on the South-East Asia Nuclear-Weapon-Free Zone, adopted in December 1995,[105] specifically provides that it shall not prejudice the rights or the exercise of these rights by States under the provisions of the Convention on the Law of the Sea, particularly with regard to the freedom of the high seas, rights of innocent passage and archipelagic sea lanes passage or transit passage of ships and aircraft (art. 2(2)).

112. In the current reporting period, IMO bodies have continued to consider several issues of importance to the interpretation and application of the United Nations Convention on the Law of the Sea, particularly those entailing restrictions of navigational rights in the form of mandatory ship's routing and mandatory reporting systems. These restrictions of rights, which had become essential for the safety of maritime traffic, are of commensurate benefit to the protection of the marine environment.

1. Routing systems and mandatory reporting systems

113. IMO has given increased recognition to the environmental protection aspects of ships' routing and reporting, as well as maritime safety, and has gradually moved towards the introduction of mandatory measures.

114. A ship's routing system, which comprises sea lanes and traffic separation schemes, may be designated or prescribed by States Parties in accordance with the Convention. Pursuant to article 22, such designation or prescription may be done by coastal States in their territorial sea, taking into account the recommendations of IMO. However, under articles 41(4) and 53(9) of the Convention, States bordering straits and archipelagic States may designate sea lanes and prescribe traffic separation schemes or substitute them only after agreement with IMO.

115. Routing systems are also intended to ensure the protection of the marine environment. The Convention provides in article 211 (1) for the establishment by States, acting through the competent international organization (IMO), of routing measures designed to minimize the threat of accidents which might cause pollution of the marine environment. The coastal State may, pursuant to article 211(6), under the conditions stipulated therein, adopt special mandatory laws and regulations for the prevention, reduction and control of marine pollution in a clearly defined area in its exclusive economic zone where such special laws and regulations are required for recognized technical reasons in relation to its oceanography, ecology, resource use and maritime traffic conditions. The mandatory measures can include not only the regulation of navigational practices but also the limitation of operational discharges. Such laws and regulations, however, can only be adopted by the coastal State after a determination by the competent international organization (IMO) that the conditions in the area concerned correspond to the requirements set out in article 211(6).

116. New regulation V/8 of the International Convention on the Safety of Life at Sea, 1974 (SOLAS), which was adopted by the Maritime Safety Committee last year (MSC.46(65)) together with the adoption of amendments to the General Provisions on Ships' Routing by the IMO Assembly in November 1995 (resolution A.827(19)), will, as of 1 January 1997, enable a State to propose for adoption by IMO routing systems for mandatory use by ships in areas beyond the territorial sea for the purposes of environmental protection (see A/50/713, paras. 93-94). The amendments established, in particular, a new definition of "mandatory routing system" as well as procedures for adopting a routing system with a view to protecting an environmentally sensitive area.

117. In addition, with the entry into force in 1996 of SOLAS regulation V/8-1, together with the Guidelines and Criteria for Ship Reporting Systems (MSC.43(64)), it is now possible for States to introduce mandatory ship reporting systems in order to improve the safety of life at sea, the safety and efficiency of navigation and/or to increase the protection of the environment. Participation in ship reporting systems is free of charge to shipping. Once a system is adopted by IMO, ships entering areas covered by ship reporting systems are required to report in to the coastal authorities, giving details of their position and identity, as well as such supplementary information that has been justified in the proposal for adoption as being necessary to ensure the effective operation of the system. This may include, e.g., the intended movement of the ship through the area covered by the system, any operational defects or difficulties affecting the ship and the general categories of any hazardous cargoes on board. Nothing in the SOLAS regulation or the Guidelines and Criteria is to prejudice rights and duties under international law or the legal regime of international straits. Ship reporting systems may or may not be operated as part of a vessel traffic service.[106]

118. The initiation of mandatory ship reporting systems rests with the Government(s) concerned. The first mandatory ship reporting systems to be adopted on 30 May 1996, under the terms of new SOLAS regulation V/8-1 by the Maritime Safety Committee (MSC)[107] are those of Australia and Papua New Guinea for the Torres Strait region and the inner route of the Great Barrier Reef (an area which has been designated a particularly sensitive sea area) and of France (off Ushant).[108]

119. New mandatory ship reporting systems, one submitted by Denmark and two by Spain, were approved by the Subcommittee on Safety of Navigation in July, for adoption by the Maritime Safety Committee.[109] The first covers the Eastern Channel of the Great Belt in order to ensure that large ships do not by mistake use the Western Channel of the Great Belt across which a low-level bridge has been constructed.[110] Spain's submissions concern the Finisterre Traffic Separation Scheme area, and the Strait of Gibraltar traffic separation scheme area; Morocco later joined with Spain on the latter.[111] The Russian Federation has reserved its position on these new systems, pointing to the fact that they are set up within the framework of VTS, and IMO has yet to complete work on new SOLAS regulations and guidelines addressing, inter alia, the issue of VTS beyond the limits of the territorial sea.[112]

120. While the Convention provides a basis for enforcement powers for environmental purposes, it does not specifically address a coastal State's

authority to enforce mandatory navigation measures in its exclusive economic zone. Similarly, it does not allow the port State to institute proceedings against a foreign vessel for violation of international rules or standards relating to navigational measures in another State's waters save in exceptional circumstances. It was pointed out that such authority should be made clear if the new rules regarding mandatory routing and reporting measures are to have any effect.[113] The Second Meeting of Legal Experts on Particularly Sensitive Sea Areas (1993) concluded that the Convention provided a precedent for coastal State enforcement of environmental measures without specifically addressing the issue. It was further concluded that it would not be inconsistent with the Convention for a port State to take enforcement action against a vessel under its jurisdiction for violation of another State's laws.[114]

Application to straits

121. IMO resolution A.827(19) amending the General Provisions on Ships' Routing includes also the Rules and Recommendations on Navigation through the Strait of Istanbul, the Strait of Çanakkale and the Marmara Sea. The approval by IMO of a mandatory ship reporting system for the Strait of Bonifacio in 1989 and for the Torres Strait this year, the decision to establish a new traffic separation scheme through the Strait of Malacca, as well as the proposals currently before IMO for mandatory ship reporting systems in the Eastern Channel of the Great Belt and the Strait of Gibraltar, also demonstrate the mounting concerns of States bordering straits regarding pollution prevention and navigational safety.

122. Some of the measures taken by States bordering straits have met with protests by user States, e.g., Turkey's decision to impose its national maritime traffic regulations in the Strait of Istanbul, the Strait of Çanakkale and the Sea of Marmara met with protests, including a protest to the Secretary-General of the United Nations by the Russian Federation (see A/49/631, para. 121).[115]

123. Not only have some strait States sought more effective measures to ensure safety of navigation in straits, but some also have called for consideration of the sharing of the cost of such measures by all States which use the strait. Indonesia, Malaysia and Singapore raised this issue when the IMO Subcommittee on Safety of Navigation invited them to resubmit their proposal for the extension and joining of the existing traffic separation scheme in the Malacca Strait to the scheme in the Singapore Strait; the three States pointed out that implementation of the proposed schemes required further hydrographic survey, which would take up to three years to complete, as well as the provision and upgrading of aids to navigation.[116] A joint survey of critical areas and investigation of dangerous or unconfirmed shoals and wrecks in the straits of Malacca and Singapore has now been agreed on among the three States and Japan and is scheduled to begin at the end of 1996.[117]

124. As part of its follow-up action to UNCED, IMO will be considering potential mechanisms by which user States and States bordering straits used for international navigation could facilitate the development of appropriate financial mechanisms, consistent with article 43 of the United Nations Convention on the Law of the Sea, so as to provide for the establishment and maintenance of necessary navigational aids and other safety aids to navigation as well as the prevention, reduction and control of pollution from ships. Such

financial mechanisms are to be designed to achieve an equitable sharing of this burden.[118] Some delegations expressed their opposition to the imposition of a tax on shipping as a means of obtaining funds.[119]

Application to particularly sensitive sea areas

125. IMO mandatory ship reporting and routing systems can assist in the protection of an area identified as a particularly sensitive sea area in accordance with the 1991 IMO Guidelines for the Designation of Special Areas and the Identification of Particularly Sensitive Sea Areas and thus may prompt more States to submit proposals to IMO for the identification of such areas. It may however also result in the continuation of the current practice of establishing "areas to be avoided" without formally identifying an area as a particularly sensitive one. A proposal was submitted by Cuba in 1996 to the Marine Environment Protection Committee for the designation of the Sabana-Camguey archipelago as a particularly sensitive sea area.[120]

126. The European Parliament, in its resolution of 27 March 1996 on the Sea Empress maritime disaster,[121] expressed the belief that member States should, in close cooperation with the Commission, establish the areas in their territory which are considered very sensitive or difficult for shipping and set rules under which such areas must be navigated, the type and size of vessels allowed to navigate in those areas and the weather conditions under which they can be open to shipping.

127. In the Ministerial Declaration of the Fourth International Conference on the Protection of the North Sea (8-9 June 1995), the Ministers, recognizing the need for adequate measures to protect environmentally sensitive areas which are also at risk from shipping, agreed to cooperate in order to make use of the range of routing measures available through IMO, including "areas to be avoided" and "deep-water routes". They also agreed to actively support the work of the European Union on establishing criteria for the identification of such areas and to monitor sites where routing measures are established in order to assess ships' compliance with such measures.[122]

128. There is substantial evidence, therefore, that IMO's work to develop criteria for the designation of particularly sensitive sea areas is an ongoing exercise. Moreover it has been suggested that there should be criteria for restricting or excluding ships carrying irradiated nuclear fuel (INF) from particularly sensitive sea areas (see also para. 225).

2. Sea lanes in archipelagic waters

129. Indonesia is the first archipelagic State to submit a proposal to IMO for the designation of archipelagic sea lanes in accordance with article 53 of the Convention.[123] Pursuant to article 53, paragraph 1, an archipelagic State may designate sea lanes and air routes suitable for the continuous and expeditious passage of foreign ships and aircraft through or over its archipelagic waters and the adjacent territorial sea.[124] Paragraph 9 requires an archipelagic State to refer proposals for the designation or substitution of sea lanes, or for the prescription or substitution of traffic separation schemes, to the competent

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international organization for adoption. IMO is the competent international organization; it may adopt only such sea lanes and traffic separation schemes as may be agreed upon with the archipelagic State.

130. Indonesia has proposed for adoption by IMO, if possible before the end of 1997, three archipelagic sea lanes running in a north-south direction. They are defined, in accordance with paragraph 5 of article 53, by a series of continuous axis lines. Indonesia has informed IMO in its submission that the coordinates and maps were submitted to the International Hydrographic Organization (IHO) for review. According to Indonesia, the proposed axis lines are the result of years of careful study of various factors, such as: the need of international transportation and aviation in transiting Indonesian waters; the hydrographic and natural marine conditions in and near the relevant axis lines; the intensity of coastal and inter-island navigation and overflight; the intensity of fishing activities, particularly of local artisanal fishermen; the existence of oil and gas exploration and exploitation; the presence of maritime installations and structures, as well as underwater cables and pipelines; the need to protect the marine environment and marine parks as well as the marine ecosystem; the development of coastal and marine tourism; the peace, stability and security of Indonesia, particularly the heavily populated coastal zones; the capacity of law-enforcement agencies to monitor navigation and overflight in relevant areas so that law and order can be safeguarded.

131. The proposal notes that, pending the designation of other sea lanes through other parts of the archipelagic waters, the right of sea lanes passage may be exercised in the relevant archipelagic waters in accordance with the Convention. For the purposes of safety of navigation and the safety of Indonesia, foreign tankers, vessels using nuclear energy, foreign vessels carrying nuclear substances and other dangerous goods, foreign fishing vessels, as well as foreign warships transiting through the Indonesian waters from one part of the exclusive economic zone or the high seas to another part of the exclusive economic zone or the high seas are recommended to transit through the sea lanes in accordance with the Convention and other applicable rules of international law.

132. The Indonesian proposal will be considered by the Maritime Safety Committee at its session in December 1996. Since this will be the first time that IMO is asked to consider a proposal for the designation of archipelagic sea lanes, it has been proposed that IMO should first agree on and establish appropriate procedures for adopting such sea lanes, which, it is suggested, must take into account the legitimate rights and concerns of the archipelagic State and those of the States whose ships and aircraft transit archipelagic waters.[125]

133. When Indonesia held a series of talks earlier this year with some of the major users to solicit their views on the proposed three archipelagic sea lanes, it was reported that the major users wanted Indonesia also to designate east-west sea lanes which would then connect directly with the Strait of Malacca.[126]

C. Offshore installations and structures

1. Removal and disposal

134. Fifty-three countries in the world have offshore platforms; about 1,000 out of 7,000 have been removed so far. Since most are in relatively shallow waters, it has been estimated that 90 per cent of the platforms would need to be completely removed following their decommissioning, in order to ensure safety of navigation.[127]

135. States, when removing a platform (installation or structure), are required under article 60(3) of the Convention to take into account the 1989 IMO Guidelines and Standards for the Removal of Offshore Installations and Structures on the Continental Shelf and in the Exclusive Economic Zone. They provide that after 1 January 1998, no installation or structure should be placed on any continental shelf or in any exclusive economic zone unless the design and construction of the installation or structure is such that entire removal upon abandonment or permanent disuse would be feasible.

136. While some regional conventions include provisions on the removal of offshore installations and structures and have established guidelines and standards relating thereto, for example in the Baltic Sea, North Sea, the Mediterranean Sea and in the region covered by the Kuwait Regional Convention for the Protection of the Marine Environment from Pollution, other regions have no regime in place to regulate this activity. At a 1995 Economic and Social Commission for Asia and the Pacific (ESCAP) training seminar on the removal and disposal of obsolete offshore installations and structures in the exclusive economic zone and on the continental shelf, participants recommended that the contracting parties to the London Convention be informed of their concerns that possible requirements for the total removal or a ban on disposal at sea of offshore platforms would impose harmful consequences on the oil and gas industry in the ESCAP region.[128] The 1992 Convention on the Protection of the Marine Environment of the Baltic Sea requires complete removal and disposal on land. In the North Sea/North-east Atlantic there is a moratorium on disposal at sea of decommissioned offshore installations. A recent draft resolution of the Assembly of the Council of Europe calls for the promotion of the complete removal of discarded oil and gas installations through international cooperation.[129]

137. The question of whether disposal at sea of decommissioned offshore platforms should remain an option under the London Convention is awaiting the final decisions on the amendment of the 1972 London Convention (see also paras. 207-212 below). There are two amendment proposals: (a) to include within the definition of dumping "any abandonment or any toppling at site of platforms or other man-made structures at sea, for no other purpose than disposal"; and (b) to include among the wastes that may be considered for dumping, "vessels and platforms or other man-made structures at sea", with the following footnote: "Provided that material capable of creating floating debris or otherwise contributing to pollution of the marine environment has been removed to the maximum extent and provided that material dumped poses no serious obstacles to fishing or navigation".[130] The contracting parties had earlier concluded, pending the final decision in this area, that the parties should

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apply the London Convention and the IMO Guidelines and Standards in their national practice on a case-by-case basis.

2. Pollution from offshore activities

138. The Convention imposes the basic obligation on States to prevent, reduce and control pollution of the marine environment arising from or in connection with seabed activities subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction, which must be no less effective than international rules, standards and recommended practices and procedures (art. 208).

139. A proposal has been made to consider at the special meeting to amend the London Convention the possible development of future regulatory activities concerning offshore oil and gas exploration and exploitation under the Protocol, pending the outcome of the discussion on this matter in the Commission on Sustainable Development.[131]

140. The Commission on Sustainable Development has taken note of the report submitted by IMO on the implementation of Agenda 21, including its paragraph 17.30 (see A/50/713, paras. 235-237) and has agreed with IMO's conclusion that there was no compelling need at the time to further develop globally applicable environmental regulations in respect of the exploitation and exploration aspects of offshore oil and gas activities. The Commission encouraged States to continue relevant national and regional reviews of the need for additional measures to address the issue of degradation of the marine environment from offshore oil and gas platforms, as called for in paragraph 17.30, taking into account the relevant expertise of IMO, UNEP and the Division for Ocean Affairs and the Law of the Sea. To this end, the Commission called for partnership, within specific regions, between Governments and the private sector. The Commission encouraged relevant and competent international and regional bodies to make available appropriate inputs to expert meetings to be held in the Netherlands on offshore oil and gas activities.[132]

D. Archaeological and historical objects found at sea

141. As noted in the previous report (A/50/713, paras. 228-231), growing attention is being paid to the legal issues relating to the protection of the underwater cultural heritage, at both the international and the national levels. The Convention deals in general terms with these issues: for objects found beyond the limits of national jurisdiction, in article 149; and, within national jurisdiction, in article 303, which also refers to article 33 dealing with the contiguous zone.

142. Developments at the international level have centred on UNESCO. More recently, the International Law Commission (ILC) has also indicated its intention to study the question (see para. 146). In 1993, the Executive Board of UNESCO adopted a resolution by which it requested the Director-General to undertake a preliminary study on the advisability of preparing an international instrument for the protection of the underwater cultural heritage. That study

(March 1995) concluded that "it would be feasible to elaborate a legal instrument for this seriously threatened part of humanity's heritage".[133] Having examined the study, the General Conference of UNESCO, by resolution 28C(3.13) of 15 November 1995, considered that the technical and, in particular, the jurisdictional aspects should be discussed in full and invited the Director-General to organize, in consultation with the Division for Ocean Affairs and the Law of the Sea and with IMO, a meeting of experts on the underwater cultural heritage. Interested States were also invited to participate as observers in the meeting, which took place from 22 to 25 May 1996.

143. The expert meeting agreed that there was a need for a legally binding instrument for the protection of the underwater cultural heritage and that UNESCO was the appropriate forum for its adoption. Furthermore, there was general agreement that the incentives regarding commercial value, contained in some national salvage law, should not be included in the future instrument; that warships should be excluded from the scope of application of the instrument; that an approach based on flag State jurisdiction, and port State jurisdiction, supplemented by existing coastal State jurisdiction, was the more acceptable solution for enforcement; and that the establishment of a new zone under coastal State jurisdiction was not a realistic approach since it would affect the delicate balance achieved in the Convention on the Law of the Sea regarding the different maritime zones. The creation of protected underwater reserves or sanctuaries was favoured by some experts who were concerned with the protection of memorial sites. The need was also expressed for an international body charged with the promotion and monitoring of international cooperation regarding underwater cultural heritage.

144. The experts recommended also the adoption of a resolution by the UNESCO General Conference (October 1997) which would urge States to take provisional measures within the areas of their jurisdiction and through international cooperation to protect the underwater cultural heritage pending the adoption and entry into force of a convention, should the General Conference decide to draft such a convention.

145. At the request of the expert meeting, UNESCO is drafting a "reference document", taking into account the draft conventions prepared by the International Law Association[134] and the Council of Europe as well as the discussions of the expert meeting.[135] This will be submitted with the report of the expert meeting to the UNESCO General Conference in 1997.[136]

146. With respect to archaeological and historical objects beyond national jurisdiction, note should also be taken of possible future work by the International Law Commission on the topic "Ownership and protection of wrecks beyond the limits of national jurisdiction". The Working Group for the long-term programme of work of the ILC has identified this topic as one of three such future topics, noting also that the question had never been studied before and had practical value. The suggested provisional outline for future work includes such elements as the definition of "wreck", and the disposal of recovered vessels or objects;[137] a number of the elements suggested address issues also raised by the UNESCO expert meeting on the underwater cultural heritage. The ILC Working Group has stated, however, that it has no intention of overlapping with the competence of other institutions concerned. Should the Commission

decide to take up the topic, therefore, there will be a need to clearly define the scope of its work, taking into account work in progress in other forums.

147. Further developments in this area are indicated by reference to the growing debate on protected marine areas, the adoption of new national legislation, as in the case of the above-mentioned South African law (see para. 34 (e) above) and statements such as that made by the Netherlands in its declaration on ratification of the Convention, which pointed out that while jurisdiction over these objects is limited to that allowed in articles 149 and 303 of the Convention, further development in international law on the matter might be needed.

E. Removal of wrecks

148. The subject of the removal of wrecks has long been inscribed on the long-term work programme of the IMO Legal Committee, and has now been upgraded to a second-level priority.[138]

149. Wrecks can constitute a danger to navigation, to the marine environment or to its coastline and related interests, particularly in the heavily trafficked waters of many enclosed and semi-enclosed seas and straits used for international navigation. They also raise such other practical problems as refunding or recovering the costs of removal. No specific instrument exists concerning removal of wrecks; nor does the Convention specifically refer to wrecks, although there are a number of relevant provisions conferring certain powers on coastal States whether with respect to ensuring the safety of navigation or the protection and preservation of the marine environment.

150. To address the practical problems of removing wrecks located beyond the territorial sea, Germany, the Netherlands and the United Kingdom submitted a draft International Convention on Wreck Removal to the IMO Legal Committee (October 1995). The draft is aimed at establishing uniform rules for wreck removal operations beyond the territorial sea and to achieve consistency with coastal State powers under the Convention. It recalls that article 221 of the Convention and the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969, as amended by the Protocol of 1973 thereto, provide for action by coastal States on the high seas following a maritime casualty, in order to protect their interests against pollution. As to scope, the draft leaves open the question of whether, and to what extent, it should apply to offshore oil and gas installations; State-owned ships would be excluded. It provides that the State whose interests are the most directly affected by the wreck would be responsible for determining whether a hazard exists. One of the criteria which can be taken into account by a State when determining whether a hazard exists, is whether the area is identified as a particularly sensitive sea area "according to guidelines adopted by the Organization, or established in accordance with article 211, paragraph 6, of the United Nations Convention on the Law of the Sea, 1982".[139]

151. The draft Convention on wreck removal has invited various comments concerning, most notably, the lack of a proper role for the coastal State and the introduction of an obligation of removal to the detriment of other

options.[140] Also commented upon is the exclusion of State-owned ships, since decommissioned warships lost while under tow present serious problems; they also clearly fall outside the definition of warships in the Convention (art. 29).[141] The Subcommittee established on the subject by the Comité Maritime International has concluded that while there may be divergencies in State practice on the matter, the Convention on the Law of the Sea provides the necessary rights to coastal States to remove or require the removal of wrecks in the territorial sea. With regard to wreck removal beyond the territorial sea, this group of experts has concluded that there is no bar to concluding a new convention to confer on coastal States the right of wreck removal, as long as it is compatible with the Convention.[142]

F. Conservation and management of living marine resources

152. Several important milestones in the field of marine fisheries have been established at the global level in the past several years: the establishment of important commitments concerning high seas fisheries and fisheries within areas under national jurisdiction in chapter 17 of Agenda 21, adopted in 1992; the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the 1995 Agreement on fish stocks); the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Agreement on flagging on fishing vessels); and the 1995 FAO Code of Conduct for Responsible Fisheries. It should be stressed, for the purposes of a comprehensive review of ocean affairs and the law of the sea, that the 1995 Agreement on fish stocks is an important component of the law of the sea, serving to strengthen dramatically certain general provisions in Part IX on the high seas, including in particular the strengthening of compliance, control and enforcement. Developments with respect to its implementation are contained in the Secretary-General's report of 4 October 1996 (A/51/383). Attention is also drawn to the Secretary-General's report of 25 September 1996 (A/51/404) concerning other special issues related to the conservation and sustainable use of marine living resources.

153. The Commission on Sustainable Development has specifically welcomed these major accomplishments in its first review of the implementation of chapter 17. It also recognized the significance of the Rome Consensus on World Fisheries of the FAO Ministerial Meeting on Fisheries (March 1995); decision II/10 of the Conference of Parties to the Convention on Biological Diversity (see para. 230 below); General Assembly resolutions 50/23, 50/24 and 50/25 on the law of the sea and sustainable use and conservation of marine living resources; and the Kyoto Declaration and Plan of Action on the Sustainable Contribution of Fisheries to Food Security (Kyoto, December 1995). In its first review of the implementation of chapter 17, the Commission dealt with its programme areas C and D, under the heading "Implementation of international fishery instruments".[132]

1. Regional fisheries bodies and arrangements

Atlantic Ocean

154. The International Commission for the Conservation of Atlantic Tunas (ICCAT), at its fourteenth regular meeting (10-17 November 1995), adopted various recommendations, including: supplemental management measures for Eastern Atlantic bluefin tuna; quota exemption for small-scale domestic bluefin tuna fisheries in the western Atlantic; establishment of percentage shares of total allowable catch; over-age and under-age provisions for States fishing for North Atlantic swordfish; and implementation of an alternative option for the conservation of undersized Atlantic swordfish and the reduction of fishing mortality. The Commission also expressed continuing concern over the increase in tuna fishing activities by fishing vessels of non-contracting parties in the ICCAT convention area, particularly those that failed to comply with the conservation and management recommendations adopted by the Commission. It urged non-contracting parties to take the necessary measures to comply with these internationally agreed regulatory measures for the conservation of the living marine resources and to submit statistical information on their catches of tuna and tuna-like fish in the ICCAT regulatory area.[143]

Eastern Central Atlantic

155. The Fishery Committee for the Eastern Central Atlantic (CECAF), at its thirteenth session (18-20 December 1995),[144] endorsed the conclusions of the CECAF Subcommittee on Management of Resources within the Limits of National Jurisdiction, recommending that fishing effort for several stocks within the national jurisdiction of several coastal States should be stabilized at current levels and that fishing effort should be reduced for demersal fish in the Gambia. CECAF also approved the recommendation of the Subcommittee that ICCAT's regulatory measures should be considered for adoption in the region, since a large quantity of tunas were caught there.

156. The Committee emphasized the need for fisheries to be integrated into the overall framework of coastal area management and to study issues of by-catch discarded at sea, including management measures and selective gear to reduce such discards. It was also agreed that management of stocks of high value should be improved given their excessive exploitation in most areas of the region.

157. The Committee also discussed the relevance of the 1995 Agreement on fish stocks to East Atlantic fisheries. Although few straddling fish stocks occur in the region and highly migratory species are already covered by ICCAT, the Committee noted that many principles contained in the Agreement were applicable to all fisheries. Pointing particularly to the shared stocks occurring throughout the CECAF region, the Committee urged its members to consider becoming parties to the Agreement, to ensure that its provisions on highly migratory species were implemented by ICCAT and to implement the relevant provisions for the management of shared resources.

158. CECAF expressed its full support for the FAO Code of Conduct and emphasized its importance for management and development work in the region, highlighting

the need for the Code and subsequent guidelines for its practical implementation to be widely disseminated in the appropriate languages.

Western Central Atlantic

159. The Committee for the Development and Management of Fisheries in the Lesser Antilles of the Western Central Atlantic Commission (WECAFC), at its fifth session (14-16 November 1995), adopted various recommendations including those concerning the specific problems of small island States and integration of fisheries into coastal area management.[145]

160. Following on the report of the WECAFC secretariat on the status of fishery resources in the region which indicated the need for resources assessment for most species, the Committee agreed that the States of the Lesser Antilles should collate the data on catches of demersal or reef resources, expressed as catches per unit area on individual island shelves and enhanced by rough indices on the fishing effort, to enable production modelling on an areal basis. This could provide useful information on potential production and the state of exploitation of the resource of individual island shelves.

161. The Committee agreed that, given the current trends in demand for fish and fish products and the absence of adequate management mechanisms and practices in the region, there was a growing risk of over-exploitation and eventual depletion of fishery resources. Social as well as economic forces were considered to play a substantial role in determining the attitude of Governments to fisheries management.

North-east Atlantic

162. The North-East Atlantic Fisheries Commission (NEAFC) held an extraordinary session (19-21 March 1996) on oceanic-type redfish and Norwegian spring spawning herring, and agreement was reached that appropriate management measures were needed for these stocks. A 1996 total allowable catch of 153,000 tonnes was recommended for the redfish, for allocation among NEAFC members, and the introduction of a monthly catch reporting system for the herring. NEAFC also called on non-contracting parties to cooperate with it to ensure respect of the management measures.[146]

North-west Atlantic

163. The Fisheries Commission of the Northwest Atlantic Fisheries Organization (NAFO), at its seventeenth annual meeting (11-15 September 1995), adopted recommendations concerning control and enforcement measures as well as conservation of fish stocks.[147] It agreed on amendments which would introduce the following: objectivity in the distribution of inspections; transmission of information from inspections to provide advance notification of apparent infringements; reporting of catch on board fishing vessels entering and exiting the regulatory area; establishment of minimum mesh size for capelin fishery; amended provisions on dockside inspections; follow-up of apparent infringements; pilot project for observer and satellite tracking; effort plans and catch reporting; minimum fish size of 30 cm for Greenland halibut; and adoption of

processed length equivalents for Atlantic cod, American plaice and yellowtail flounder.

164. On the recommendation of its Standing Committee on Fishing Activity of Non-Contracting Parties in the regulatory area, the NAFO General Council agreed to undertake diplomatic démarches to Belize, Honduras, Sierra Leone and New Zealand asking them to withdraw their vessels from the NAFO regulatory area. The General Council also emphasized that any such fishing activity would be contrary to the letter and spirit of the then draft Agreement on fish stocks and the objectives of NAFO.[148]

South-west Atlantic

165. The South Atlantic Fisheries Commission, composed of Argentina and the United Kingdom, adopted a joint statement on 21 November 1995 whereby a commitment was made to reach an understanding in 1996 on the conservation of fish stocks in the region in which priority would be given to the conservation, principally of illex squid and southern blue whiting, on the basis of the best scientific advice available. It was agreed that fishing activity for illex stock ought to be tightly controlled throughout the south-west Atlantic, with no increase in the level of fishing in the relevant areas. The statement expressed concern over the high level of fishing activity directed at the illex stock on the high seas, which could undermine the conservation goals of the Commission, and consequently recommended to Governments that appropriate measures be taken to monitor and exchange relevant information.[149] The implications of the 1995 Agreement on fish stocks for the work of the Commission would be considered at a future time.

166. The States members of the Zone of Peace and Cooperation of the South Atlantic, at their fourth meeting, in April 1996, in a decision on illegal fishing activities in the Zone, decided to examine at their fifth meeting the possibility of establishing cooperative ways and means in support of the surveillance of illegal fishing activities and to prepare a report thereon.[150]

Inter-American region

167. The Inter-American Convention for the Protection and Conservation of Sea Turtles, adopted on 5 September 1996, will be opened for signature on 1 December 1996; Venezuela will be the depository country. The area of implementation of the Convention will include the waters of the Atlantic Ocean, the Gulf of Mexico, the Caribbean and the Pacific Ocean, where the parties exercise sovereignty or sovereign rights over living marine resources. The Convention provides, in its article III, that these rights are in accordance with international law, in particular as it is reflected in the United Nations Convention on the Law of the Sea. The Latin American Fisheries Development Association (OLDEPESCA) will serve as the temporary secretariat to the Convention.

Antarctica

168. At its fourteenth annual meeting (24 October-3 November 1995), the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)

adopted various decisions for the 1995/96 season, including precautionary catch limits for several fish stocks, and for the development of a new survey of krill in area 48 to take specific account of the need to derive precautionary catch limits. With regard to the status of dependent species, including incidental mortality of marine animals during fishing operations, the Commission endorsed the advice of its Scientific Committee aimed at reducing seabird mortality and improving fishing efficiency. It also endorsed a number of specific recommendations by its Standing Committee on Observation and Inspection supplementing relevant provisions of the system of inspection, including the extent to which the new regulations would not apply to certain types of fisheries. As to the operation of the scheme of international scientific observation, the Committee recognized that it was the only means to obtain reliable data and information from fisheries and to educate ships' crews in the use of measures aimed at mitigating the incidental mortality of seabirds.[151]

Indian Ocean

169. The Agreement for the establishment of the Indian Ocean Tuna Commission (A/49/631, para. 167) entered into force on 27 March 1996 following the deposit of the tenth instrument of acceptance by the Republic of Korea. The future role of this Commission, dealing with highly migratory species, would be affected by the 1995 Agreement on fish stocks, particularly its article 10 which details the functions of subregional and regional fisheries management organizations and arrangements.[152]

South Pacific

170. The twenty-sixth South Pacific Forum (13-15 September 1995) urged all interested States to become parties as soon as possible to the 1995 Agreement on fish stocks. The Forum considered that comprehensive regional fisheries management arrangements, and a structure consistent with the Agreement to administer them, should be developed as a matter of urgency. Such management arrangements must be based on a precautionary approach to ensure the sustainable exploitation of the region's valuable tuna resources.

171. The Forum also noted significant progress over 1994 in the implementation of regional fisheries commitments, including the conclusion of the Arrangement for Regional Fisheries Access; the significant contribution of the region to the preparation of the 1995 Agreement; the work to develop comprehensive regional fisheries management arrangements; progress in the development of the regional vessel monitoring system; and progress in the pursuit of multilateral fisheries access arrangements. Continued efforts will be made to conclude additional multilateral fishing agreements with distant water fishing States under which no member country would be made worse off than under its existing bilateral fishing agreements.[153]

2. Other developments

172. Continuing concern with overcapacity in fishing fleets and overfishing of fish stocks, as well as the lack of employment alternatives for European fishermen in the fishing industry, have led the Committee on Agriculture and

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Rural Development of the Parliamentary Assembly of the Council of Europe to produce a comprehensive report on fisheries management policies, including a draft resolution and draft order for approval by the Assembly.[154]

173. The Committee stressed the importance of prudent long-term management policies and their basis in detailed knowledge and understanding of the marine ecosystem concerned and the interrelationships between species, as well as a sound understanding of the interdependence between technical, biological and economic factors. It stressed the need to greatly improve multispecies fisheries management policies in areas of major importance for Europe, European fishermen and related industries. Important objectives for further development of global and regional legal regimes and management policies would be the re-establishment of a balance between fishing efforts and fishing yields, proper enforcement of agreed conservation measures, the regulation and control of all catches (including those from the high seas) and the offsetting of all catches (including discards) against the determined quotas for each stock. Emphasis was also placed on the importance of fully involving fishermen and other groups concerned in the development and implementation of fisheries management policies, and on the maintenance of a varied and differentiated fishing fleet - with coastal fisheries at the core and with a capacity in keeping with the objective of sustainable development. The Committee also called attention to the need to foster research and development on fisheries, and their marine ecosystems, in European waters, taking into account the links with other uses, and proposed that a study be made of the many relevant institutional arrangements and activities. Furthermore, it urged the creation of a European programme or marine agency, as recommended earlier by the Assembly in its resolution 1012 (1993), to coordinate research into marine ecosystems, formulate and monitor conservation and exploitation policies, and provide information for the public and for all policy makers concerned with issues of the sustainable development of living marine resources.

174. The continued viability and economic stability of fishing around the world has also invited the attention of international bodies with more general mandates. The Inter-Parliamentary Union has called on States to ratify the 1982 Convention on the Law of the Sea and the 1995 Agreement on fish stocks. In the relevant resolution, adopted on 19 April 1996, it called for legislation and other measures to ensure responsible fisheries management, including application of the precautionary principle and provision of appropriate enforcement mechanisms and dispute resolution. It acknowledged the need to restructure fishing fleets and eliminate government subsidization of the fishing industry to overcome the problems of excessive fishing capacity and promote a fishing industry that operates on a commercial basis. Of importance also for the implementation of the 1995 Agreement on fish stocks is the resolution's call for more active participation in international and regional bodies dealing with the conservation and sustainable use of marine and coastal biodiversity and for the review of their programmes with a view to improving existing measures and developing new actions.[155]

3. Conservation, management and study of marine mammals

175. Marine mammals worldwide continue to suffer from heavy pressure from incidental catches in coastal small-scale artisanal fisheries and high seas driftnet fisheries. Other detrimental factors of particular concern are mass mortality events, pollution and habitat loss and degradation, especially in coastal areas. Articles 65 and 120 of the Convention refer to marine mammals as follows: "... States shall cooperate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations for their conservation, management and study".

(a) UNEP-FAO Global Plan of Action

176. The Global Plan of Action for the Conservation, Protection and Utilization of Marine Mammals (MMAP) is currently undergoing revision by the Planning and Coordinating Committee (PCC), which is composed of both inter-governmental (UNEP, FAO, IOC/UNESCO and Inter-American Tropical Tuna Commission (IATTC)) and non-governmental organizations (World Conservation Union (IUCN), World Wildlife Fund (WWF), Greenpeace and International Fund for Animal Welfare (IFAW)).[156]

177. A scientific advisory committee provides advice both to the PCC and the UNEP secretariat on such key elements of the Action Plan as enhancing understanding of large-scale mortalities of marine mammals, investigating and evaluating such events and providing technical assistance in non-emergency situations. An emergency response team is intended to intervene and carry out quick investigations of marine mammal stranding and die-off events which otherwise might go uninvestigated. A fund has been established to cover basic requirements for the work of a task force once it is deployed.[157] The PCC, at its most recent meeting (May 1996), discussed the work of the emergency response team, including a report on the sperm whale mortalities in the North Atlantic. The team has had other consultations in the past on die-offs around the world, but there has been no deployment of the task force.

178. The PCC has decided to conduct a comprehensive review of the legal aspects of the conservation of aquatic mammals, including the legal framework provided by the United Nations Convention on the Law of the Sea; the provisions of new related conventions and other principles; and new approaches to the enforcement of legal measures. Account will also be taken of threats to aquatic mammals and their habitat (e.g., effects of fisheries and degradation of habitats). The review is expected to be published by the end of 1996.

(b) International Whaling Commission

179. At its forty-eighth annual meeting (24-28 June 1996), the International Whaling Commission (IWC) adopted several decisions regarding the management of marine mammals and small cetaceans.[158]

180. With respect to catch limits for commercial whaling, the Commission did not adopt a proposal by Japan for an interim relief allocation of 50 minke whales to be taken by coastal community-based whaling, but agreed to hold a workshop to consider such whaling in four small coastal communities in Japan. Norway has

lodged objections to the relevant items in the schedule and has exercised its right to set national catch limits for its coastal whaling operations for minke whales. The Commission passed a resolution calling on Norway to cease all whaling activities under its jurisdiction.

181. Although the Commission has accepted and endorsed the revised management procedure for commercial whaling, it has noted that work on a number of issues, including specification of an inspection and observer system, must be completed before the Commission would consider establishing catch limits other than zero.

182. The Commission agreed on various catch limits for aboriginal subsistence whaling in accordance with its 1994 decision to undertake a major review of stocks subject to such whaling and their associated catch limits.

183. The Commission also considered other issues, such as whale killing methods, the legal competence of IWC to manage small cetaceans, the environment and whale stocks, and whale watching and the research programme under a newly designated IWC-SOWER (Southern Ocean Whale and Ecosystem Research) programme. It adopted a resolution calling on Japan to refrain from issuing permits for scientific catches.

(c) Regional developments

184. The Council of the North Atlantic Marine Mammal Commission (NAMMCO), at its sixth meeting in Tromso, Norway (27 and 28 March 1996),[159] adopted the Joint NAMMCO Control Scheme for Hunting of Marine Mammals, which provides both national inspection of coastal whaling and an international observation scheme. Its purpose is to ensure a common standard in the control systems of member countries, as well as to provide NAMMCO with the opportunity of monitoring the extent to which national regulations for the management of marine mammals are upheld.

185. An agreement for the conservation of cetaceans of the Black and Mediterranean seas was drafted within the framework of the Bonn Convention on the Conservation of Migratory Species of Wild Animals, at a negotiating meeting in September 1995.[160] Since the draft is considered to affect fisheries regulations, the European Commission and the States members of the European Community have pointed to the need to reconcile its provisions with the Common Fisheries Policy. Similar concerns as to the impacts of conservation measures for small cetaceans on fisheries have been expressed by the Black Sea States, which are developing a common fisheries policy under the auspices of the Convention on fisheries and conservation of the living resources of the Black Sea and the future Black Sea Fisheries Commission. The geographic scope of the draft agreement will be determined largely by the results of negotiations between the Russian Federation and Ukraine.[161]

186. UNEP activities under the Global Action Plan include support for the development of a marine mammal component within the Black Sea Environment Programme, funded by the Global Environment Facility (GEF) and managed by the World Bank. Priorities for regional cooperation were discussed at a meeting of six Black Sea countries (December 1995), including coordination of a population census and assessments of incidental mortality. Training workshops are planned,

which will likely also count on assistance from the biodiversity component of the programme.

G. Developments in international environmental law and policy

187. The Convention provides the overall legal framework for marine environmental protection and resource conservation. It expressly recognizes, and indeed mandates, the need for further elaboration of international rules, standards and recommended practices and procedures for marine environmental protection at the global and regional levels, but at the same time ensures that these more specialized processes are guided by its basic structure.

188. The relationship between the obligations that States have under Part XII and other relevant parts of the Convention to protect and preserve the marine environment, and the obligations that they have assumed under the wide range of global and regional instruments, which either directly or indirectly seek to protect the marine environment, is dealt with in article 237. Paragraph 2 provides that specific obligations assumed by States under special conventions, with respect to the protection and preservation of the marine environment, should be carried out in a manner consistent with the general principles and objectives of the Convention.

189. Such developments as the draft Protocol amending the London Dumping Convention and the decision by the Conference of Parties to the Convention on Biological Diversity to study the relationship between that Convention and the United Nations Convention on the Law of the Sea demonstrate the increasing attention that States are giving to the need to ensure uniformity and compatibility between the Convention and subsequent legal developments. Moreover, recent proposals to and discussions at IMO meetings indicate that States are increasingly looking to the provisions of the Convention to effectively enforce other conventions in the maritime field.

190. At the regional level also, States emphasize the importance of the Convention as a framework for all legal measures contributing to the protection and preservation of the marine environment. For example, the States members of the Zone of Peace and Cooperation of the South Atlantic, at their fourth meeting in April 1996, stressed regional cooperation in accordance with the Convention. In a Decision on the Protection of the Marine Environment, Member States that had not done so were encouraged to ratify or adhere to multilateral conventions and protocols dealing with the protection and preservation of the marine environment, including the Convention, the 1995 Agreement on fish stocks; the London Convention on dumping; and MARPOL 73/78.[162]

191. The Convention is increasingly recognized as making an important contribution to the new and emerging field of international law dealing with sustainable development. Attention is therefore drawn to the work of the Commission on Sustainable Development in respect of international legal instruments and mechanisms, in which it is assisted by the Expert Group on the identification of Principles of International Law for Sustainable Development. It brings together experts from organizations of the United Nations system, multilateral financing institutions, universities and secretariats of relevant

conventions, including the United Nations Division for Ocean Affairs and the Law of the Sea. The Commission has emphasized the importance of compliance and monitoring mechanisms of international agreements, including reporting requirements, and the need for capacity-building to improve compliance, monitoring, inspection and enforcement of international obligations. Furthermore, the Commission specifically recognized the need for consolidation and integration of procedures and cooperation among the secretariats of different conventions to this end.[163] It should be noted that the system of law of the sea focal points, developed by the Division to ensure coordination on all matters pertaining to the implementation of the Convention, continues to be expanded to include, inter alia, the secretariat of the Convention on Biological Diversity.

1. Review of the implementation of chapter 17 of Agenda 21

192. The Commission on Sustainable Development, at its fourth session (18 April-3 May 1996), reviewed chapter 17 of Agenda 21, thus completing its review of all the chapters. Chapter 17 consists of 7 programme areas, the last of which deals with small island developing States, a subject which is dealt with separately by the Commission.[164] The review of chapter 17 was based on the report of the Secretary-General,[165] which was prepared by the Administrative Committee on Coordination (ACC) Subcommittee on Oceans and Coastal Areas, established in 1993 by the Inter-Agency Committee for Sustainable Development (IACSD), inter alia, for the purpose of preparing the necessary reports for the Commission.

193. The Commission welcomed the very important advances made in this area since 1992. In addition to the entry into force of the Convention, explicitly recognized as being fundamental to the implementation of chapter 17, the Commission welcomed also the 1994 Agreement on Part XI, as well as the 1995 Agreement on fish stocks, the 1993 Agreement on fishing vessels, the FAO Code of Conduct for Responsible Fisheries and the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (see paras. 198-205). It also recognized such other important international policy statements as the Kyoto Declaration and Plan of Action, and the Jakarta Mandate (decision II/10 of the Parties to the Convention on Biological Diversity). In its decision 4/15 concerning, inter alia, chapter 17 issues, it addressed primarily the implementation of international fishery instruments and international cooperation and coordination.[166]

194. The main recommendations of the Commission, submitted to the General Assembly by the Economic and Social Council, concern the following:

(a) The establishment of institutional arrangements for the implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities and for periodic intergovernmental review (a draft resolution for adoption by the General Assembly at its fifty-first session);[167]

(b) The introduction of periodic, intergovernmental review of "all aspects of the marine environment and its related issues" (by the Commission, on the basis, inter alia, of a report by the ACC Subcommittee) (see also paras. 238-242 below);

(c) Reporting to the Secretary-General on the implementation of international fishery instruments and on "progress made in improving the sustainability of fisheries" (by FAO);

(d) A review of the ACC Subcommittee with a view to improving its status and effectiveness, including the need for closer inter-agency links (by the Secretary-General);

(e) A review of the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) with a view to improving its effectiveness and comprehensiveness while maintaining its status as a source of agreed, independent scientific advice (by GESAMP sponsoring organizations);

(f) Ongoing review of the need for additional measures to address the issue of degradation of the marine environment from offshore oil and gas development (by IMO, UNEP and the Division) (see para. 140 above).

Final decisions on important aspects of these recommendations will await the special session of the General Assembly on sustainable development, to be held in June 1997.

ACC Subcommittee on Oceans and Coastal Areas

195. In preparation for the special session of the General Assembly, the Commission for Sustainable Development at its fifth session, in April 1997, will consider a report of the Secretary-General giving an overall assessment of the progress achieved in the implementation of Agenda 21 and recommending future actions and priorities, including recommendations on the future role of the Commission.[168] Those elements of the report which relate directly to chapter 17 issues will again be prepared by the ACC Subcommittee.

196. The ACC Subcommittee on Oceans and Coastal Areas has initiated follow-up action to decisions of the Commission of relevance to chapter 17. Among other actions, the Subcommittee agreed that the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities would be considered as the cooperative programme framework for programme areas A (integrated management and sustainable development of coastal areas, including exclusive economic zones) and B (i) (marine environmental protection: land-based sources).

197. The Subcommittee also discussed at its fourth session (May 1996) procedures for strengthening inter-agency cooperation in project planning, particularly ways in which an agency originating a project should ascertain the possibilities for participation by other member organizations, as well as any potential overlaps identified. The United Nations and the United Nations Development Programme (UNDP) have volunteered to test the new procedures with the proposed TRAIN-SEA-COAST project document entitled "Training support to GEF international waters operational programmes" (see also paras. 304-308 below).

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2. Global Programme of Action on Protection of the Marine Environment from Land-based Activities

198. The Washington Declaration and the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, adopted by the Intergovernmental Conference (October/November 1995), have been submitted to the General Assembly (A/51/116) under the item on the law of the sea by the United States, as host Government of the Conference. The Conference was convened by UNEP, pursuant to the request made in chapter 17 of Agenda 21, and UNEP will be responsible for facilitating the implementation of the Global Programme of Action.

199. While this new instrument has no binding character, it rests on a firm international legal basis, most particularly on the United Nations Convention on the Law of the Sea,[169] and also on the 1972 London Convention, particularly in the light of its forthcoming amendment, and on the numerous regional instruments for the protection of the marine environment against land-based activities, including most recently the revised Protocol on Protection of the Mediterranean Sea from Pollution by Land-based Sources and Activities (March 1996). Also important are the requirements of the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and related regional instruments.

200. The Global Programme of Action is expected to contribute substantially to the progressive development of international law, including the law of the sea; in particular, it calls for the development of "a global, legally binding instrument for the reduction and/or elimination of emissions, discharges and, where appropriate, the elimination of the manufacture and use of the persistent organic pollutants identified in decision 18/32 of the Governing Council" of UNEP.[170]

201. The recommendations of the Commission on Sustainable Development, currently before the General Assembly in a draft resolution for its adoption (A/C.2/51/L.2), are particularly notable for the emphasis placed on the need for States to take direct action in all the relevant governing bodies of the United Nations system to ensure the effective implementation of the Global Programme,[171] and also to ensure that such action is coordinated, particularly for the efficient development of a clearing-house mechanism for the main source categories.[172]

202. The approach taken by UNEP to the implementation of the Global Programme of Action has involved extensive consultation with its regional seas programmes, with organizations of the United Nations system, particularly those assigned responsibilities to develop the clearing-house mechanism,[173] and with Governments and non-governmental organizations. The final form of the institutional arrangement, including particularly the role of the UNEP Water Unit and the Regional Seas Programme, will be approved by the UNEP Governing Council at its nineteenth session in 1997. It should be noted that UNEP has subsumed the previous Oceans and Coastal Areas Activity Centre in the new Water Unit, set up to deal in an integrated fashion with all water problems; the World Bank has also adopted a similar approach.

203. Considerable concern has been expressed that, although the Global Programme of Action has widespread support on a conceptual basis,[174] there has been no evidence that it would be given high priority in the current activities of the organizations of the United Nations system. Inter-agency consultations convened by UNEP (May 1996) have underscored that some organizations do not currently have a clear mandate or the resources for implementing the Global Programme, nor is there additional funding with respect to new activities. Moreover, there has not as yet been any clear indication as to what assistance might come through the avenue of the Global Environmental Facility.

204. As a result of inter-agency consultations, a closer look is being given to strengthening support given by the system at the regional level; however, more specific regional requirements will need to be articulated before the international agencies can render effective assistance. It was generally concluded also that the clearing house system could only evolve slowly.

205. The inputs from UNEP's partner agencies will be described in greater detail in annexes to the final implementation plan. For example, FAO will contribute on the problems of pesticides, nutrients and sediment mobilization, as well as on the management of forests and aquaculture in coastal areas. It is important to note that the Global Programme of Action now provides an umbrella for the specific inclusion of mangrove ecosystems and aquaculture in the integrated resource management of coastal watersheds. Also of direct relevance, is the new agreement for a joint programme among UNEP, UNESCO-IOC and the International Atomic Energy Agency (IAEA) Marine Environment Laboratory (Monaco), to assist States to conduct comparable assessments of pollution in coastal and ocean environments and to develop and implement strategies for marine environmental protection.

3. Amendment of the 1972 Convention for the Prevention of Marine Pollution by Dumping of Wastes and Other Matter at Sea (London Convention)

206. The rules and standards contained in, or adopted under, the 1992 London Convention have been recognized as global rules on dumping as referred to in article 210 of the United Nations Convention. The Parties to the Law of the Sea Convention are accordingly obliged to enact laws and regulations which are no less effective than those contained in, or adopted under, the London Convention and to enforce such rules and regulations in accordance with article 216, even if they are not parties to the latter Convention. The proposed amendments to the London Convention, which are to be adopted in the form of a protocol at a Special Meeting of Contracting Parties at the end of 1996, are thus of particular importance to Parties to the United Nations Convention on the Law of the Sea.

207. The draft 1996 Protocol to the London Convention, which extensively revises its provisions, incorporates the work of the Amendment Group, the discussions of the 16th, 17th and 18th Consultative Meetings of Contracting Parties, and the review by the Jurists' and Linguistic Group. The draft includes both the text of amendments agreed to in principle by the Consultative Meeting and the text of amendments, the consideration of which has not yet been completed.[175]

208. The Consultative Meeting has agreed in principle to amend the existing definition of dumping, which is also the definition used in article 1 of the 1982 Law of the Sea Convention, to include "any storage of wastes or other matter in the seabed and the subsoil thereof from vessels, aircraft, platforms or other man-made structures at sea"; and to exclude from that definition "abandonment in the seabed and the subsoil thereof of matter (e.g., cables, pipelines and marine research devices) placed for a purpose other than the mere disposal thereof". The definition of "sea" will be amended accordingly to include "the seabed and the subsoil thereof". Following intense negotiations at the 18th Consultative Meeting, it was agreed to continue to exclude internal waters from the definition.[176] However, a new article on internal waters would require each contracting party at its discretion either to apply the provisions of the Protocol or to adopt other effective measures to control deliberate dumping or incineration. Information on legislation and institutional mechanisms regarding implementation, compliance and enforcement would have to be provided to IMO. There is also agreement in principle to add a definition of "pollution", which is based on article 1 of the United Nations Convention on the Law of the Sea.

209. Also agreed to in principle is a new article on general obligations, paragraph 3 of which is based on article 195 of the 1982 Convention. The development of this new article, which introduces both the precautionary approach and the polluter pays principle, is connected with proposals to include "reverse lists" - i.e., instead of "black and grey lists", which means that all dumping would be strictly prohibited with the exception of clearly identified waste categories - and the Waste Assessment Framework.

210. The amendments requiring further consideration by the Special Meeting include the questions of whether to accept the reverse list or to retain the existing prohibition list; whether to permit or completely prohibit incineration at sea, and if the latter, whether to include "fish waste, or material resulting from industrial fish processing operations" in the list of wastes that can be incinerated; whether to include new articles dealing with export of wastes or other matter, compliance control, scientific and technical research and provisional application; and whether to extend the application of the Convention to vessels, etc., entitled to sovereign immunity.

211. The Special Meeting will also have to consider an amended article on settlement of disputes, which proposes that where the parties fail after 12 months to resolve their dispute by negotiation, mediation or conciliation, the dispute must be settled by means of the arbitral procedure set forth in the annex, unless the parties agree to use one of the procedures listed in article 287 (1) of the United Nations Convention on the Law of the Sea.

4. Liability and compensation for damage: new instruments

212. Article 235, paragraph 3, of the Convention calls on States to cooperate in the further development of international law relating to responsibility and liability for environmental damage, including the development of criteria and procedures for payment of compensation, and the settlement of related disputes.

The 1996 HNS Convention

213. Developments at IMO have considerably advanced the implementation of article 235 of the Convention. The International Conference on Hazardous and Noxious Substances and Limitation of Liability (15 April-3 May 1996) adopted the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances, 1996 (the HNS Convention)[177] and the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976 (the LLMC Protocol).

214. The HNS Convention introduces strict liability for the shipowner, higher limits of liability than the present general limitation regimes and a system of compulsory insurance and insurance certificates. It covers not only pollution but also other risks such as fire and explosion caused by HNS substances. Compensation is accordingly provided not only for pollution damage in the territory, including the territorial sea and exclusive economic zone of a State party, but also for loss of life or personal injury on board and outside the ship and damage to property outside the ship.

215. The HNS Convention establishes a regime of liability and compensation based on a two-tier system. The shipowner's liability, which creates the first tier, is supplemented by a second tier, the HNS Fund, financed by cargo interests. Contributions to the second tier are to be levied on persons who receive a certain minimum quantity of HNS cargo during the year.

216. The Convention defines the hazardous and noxious substances to which it applies by reference to existing lists such as the International Maritime Dangerous Goods Code and annex II of MARPOL 73/78, and thus contributes to the clarification of the relevant provisions of the Convention on the Law of the Sea, which are concerned with these kinds of substances. The Conference decided to exclude from the scope of the Convention radioactive materials on the one hand, and coal and other low-hazard bulk cargoes on the other. A resolution adopted by the Conference recommends that IMO and IAEA work together in defining and considering issues of liability and compensation for damage occurring during the transport of radioactive materials.

217. Limits of Compensation regulated in the Convention are calculated using the special drawing right (SDR) of the International Monetary Fund as unit of account. The aggregate upper limit of compensation regulated by the Convention is 250 million SDRs (approximately US$ 362 million).

218. The 1996 Protocol to the Convention on Limitation of Liability for Maritime Claims deals with claims for loss of life or personal injury and property claims. The new Protocol substantially increases the original limits of compensation regulated in the parent Convention of 1976 and introduces a simplified system for adopting amendments to these limits, thus allowing the possibility of their periodic updating to preserve real values of compensation.

Pollution caused by ships' bunkers

219. The 1992 Protocols to the CLC and FUND Conventions (see para. 86 (b) above), now in force, cover also pollution damage caused by the bunkers of oil

tankers, whether laden or unladen; however, pollution caused by the bunkers of other types of ships is not covered, and the victims of such pollution cannot benefit from the protection of strict shipowner liability and compulsory insurance. The IMO Legal Committee decided to give this matter high priority at its meeting in October 1996,[178] and a proposal has been submitted by a number of delegations favouring the development of a free-standing convention.[179]

5. Carriage of radioactive materials

Developments at IMO

220. In 1995, the IMO Assembly adopted resolution A.790(19) on the review of the Code for the Safe Carriage of Irradiated Nuclear Fuel, Plutonium and High-level Radioactive Wastes in Flasks on Board Ships (INF Code). It endorsed the Secretary-General's initiative to convene a Special Consultative Meeting of entities involved with the carriage of materials subject to the 1993 INF Code and the coastal States concerned for the purpose of sharing information, concerns and ideas and to gain a better understanding of the safety and environmental aspects involved. The Assembly also noted the importance of an effective liability and compensation regime for damage in connection with the carriage of radioactive material by sea.

221. At a meeting of the Marine Environment Protection Committee in March 1996,[180] 13 of the 34 member States participating specifically requested in a declaration that the INF Code be made mandatory.[181] Both the Maritime Safety Committee and the Marine Environment Protection Committee had earlier noted that the mandatory application of the Code might be problematic and that there was a difference of opinion as to what a mandatory INF Code should contain; both committees have requested further submissions on the matter.

222. The Maritime Safety Committee, taking into account the issues listed in the above Assembly resolution and the outcome of the special meeting, has identified a number of issues requiring action or monitoring by IMO. These include mandatory application of the INF Code; route planning, notification to coastal States, and availability of information on the type of cargo being carried, including its hazards; tracking of ships carrying INF materials throughout the voyage by a shore-based authority; restriction or exclusion of INF-carrying ships from particularly sensitive sea areas; adequacy of existing emergency response arrangements; measures to locate, identify and salvage a sunken ship or lost flasks; adequacy of existing liability regimes covering accidents with INF materials; and environmental impact of accidents involving INF materials.[182]

223. The Committee decided that it was not necessary to consider the notification of coastal States in the event of an accident, as had been suggested in the Assembly resolution, since this was regulated by existing reporting requirements under both the SOLAS and the MARPOL Conventions and, therefore, no further action was required currently in this regard.[183]

224. The issues of route planning, notification to coastal States and availability of information on the type of cargo being carried raise questions of interpretation and application of the Convention on the Law of the Sea as

regards the extent of the rights of the coastal State to control activities off its coast and the interests of the flag States in preserving their freedom of navigation. There is a need for guidance as to which States would qualify to be considered as "concerned coastal States" with respect to these issues.[184] The Subcommittee on the Safety of Navigation has recommended that provisions be developed for voyage planning for all ships; however, most delegations have opposed prior notification to coastal States for voyages of ships carrying INF materials.[185]

225. As regards the issue of restriction or exclusion of INF-carrying ships from particularly sensitive sea areas, the Marine Environment Protection Committee has noted that while the 1989 IMO Guidelines for the Designation of Special Areas and the Identification of Particularly Sensitive Sea Areas make no reference to INF material, the issue could be addressed in any proposal submitted by a Government seeking designation of an area as a particularly sensitive sea area.[186]

Regional developments

226. The States members of the South Atlantic Zone of Peace and Cooperation have decided to examine the question of establishing a monitoring system to control and prevent the dumping of hazardous and other harmful material into the Zone. At their fourth meeting, they also expressed their concern regarding the safe and secure transportation of INF materials through the region.[187] They called on all States to maintain cooperation and exchange information on the transportation of nuclear material and radioactive waste and to continue working through IMO and IAEA in the development of additional measures which would complement the 1993 INF Code. They affirmed their conviction that effective international liability mechanisms were essential.

227. The Caribbean Community (CARICOM) has called on nations currently engaged in the shipment of hazardous substances through the Caribbean Sea to respect the wishes of the Community by immediately halting such operations. The 1992 Declaration of the Special Meeting of the Conference of Heads of Government of CARICOM stated that shipments of plutonium and other radioactive or hazardous materials should not traverse the Caribbean Sea.[188]

228. The Commonwealth Ministerial Group on Small States, at its second meeting in November 1995, emphasized the possible dangers of the transboundary shipment of nuclear and hazardous waste through busy sea lanes in small States and welcomed the statement on the matter issued by the CARICOM Heads of Government in February 1995 and the Waigani Convention on hazardous and radioactive wastes adopted by the South Pacific Forum in September 1995, as useful instruments for addressing this critical issue.[189] The South Pacific Forum reiterated the need for full consultations on shipments transiting the region and expressed its appreciation to Japan for its provision of information on and consultation about its shipments.[190]

6. Marine and coastal biodiversity

229. In the previous report the Secretary-General drew attention to the scientific and commercial value of deep seabed genetic resources and noted that questions had been raised regarding the legal status of these resources and activities involving them (A/50/713, paras. 143-244).

230. In view of their special importance for States Parties to the Convention, the Secretary-General included in his first report under article 319 of the Convention (SPLOS/6, paras. 41-46) a discussion of developments concerning the implementation of the Convention on Biological Diversity, most particularly decision II/10 of the Parties to that Convention, adopted in November 1995. In paragraph 12 the parties called for a study of "the relationship between the Convention on Biological Diversity and the United Nations Convention on the Law of the Sea with regard to the conservation and sustainable use of genetic resources on the deep seabed, with a view to enabling the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) to address at future meetings, as appropriate, the scientific, technical and technological issues relating to bio-prospecting of genetic resources on the deep seabed".[191] Since, in accordance with the above decision, the study is to be prepared in consultation with the Division for Ocean Affairs and the Law of the Sea, communication has recently been established between the two secretariats. Pending the submission of the study, SBSTTA refrained from discussing the issues at its last meeting (Montreal, 2-6 September 1996).

231. The general subject of marine and coastal biodiversity, as well as the specific issue of access to the genetic resources of the deep seabed, raise important questions. The topic touches not only on the protection and preservation of the marine environment, including that of the international seabed area, but also on such other matters as the application of the consent regime for marine scientific research, the regime for protected areas in the exclusive economic zone, the duties of conservation and management of the living resources of the high seas, and the sustainable development of living marine resources generally. The specific issue of access points to the need for the rational and orderly development of activities relating to the utilization of genetic resources derived from the deep seabed area beyond the limits of national jurisdiction. The study to be prepared for Parties to the Biodiversity Convention will be of equal, or possibly greater importance to States Parties to the United Nations Convention on the Law of the Sea, as well as to Member States in the General Assembly reviewing the overall implementation of the Convention and the implications of current trends and developments for the law of the sea.

232. In addition to the questions that may be raised concerning applicable or relevant international law and the possible development of generally accepted international rules and regulations, a number of concerns exist as to the appropriate intergovernmental forum for consideration of the issues now raised, as well as other institutional issues, including coordination among treaty bodies and the competent international organizations. Some of these elements have been touched upon in documentation for the Third Conference of Parties to the Convention on Biological Diversity.[192]

233. The group of experts on marine and coastal biodiversity, established pursuant to decision II/10 of the Second Conference of Parties, has not been able to meet as planned; however, the first step has been achieved in drawing up a roster of nominated experts from which the group will be composed. SBSTTA has recommended that this expert group should concentrate on determining the following areas where the Biodiversity Convention can have the greatest effect: integrated marine and coastal area management, marine and coastal protected areas, sustainable use of coastal and marine living resources, mariculture and alien species.[193] Other items of particular note discussed by SBSTTA included the economic valuation of biological diversity and its components, in particular in relation to access to genetic resources (art. 15 of the Convention).

234. Attention is also drawn to the new prominence given to the subject of marine and coastal biodiversity at the fourth session of the Commission on Sustainable Development, particularly in connection with chapter 17 of Agenda 21. The Commission devoted particular attention to coral reefs and other special ecosystems (mangroves, estuaries and seagrass beds), welcoming the 1997 International Year of the Reefs and emphasizing the need for integrated coastal and marine area management plans to protect biodiversity.[194]

7. Protected areas

235. The subject of protected areas is of wide interest, and their establishment is provided for in an increasing number of instruments, including the Convention. They serve the purpose of preventing pollution from ships (art. 211 (6)) and protecting "rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life" (art. 194 (5)). The relationship between article 211 (6) of the Convention and the concepts of a particularly sensitive sea area and a special area under MARPOL 73/78 has yet to be clarified fully. In this regard, note should be taken of the recent draft for a convention on wreck removal submitted to IMO (see paras. 150-151 above).

236. There is a need to harmonize the increasing number of differing terms used to describe areas in need of special protection from maritime activities and to coordinate the measures that can be taken to protect and preserve them, e.g., "special area" under MARPOL 73/78; "special areas" in article 211(6) of the 1982 Convention; "particularly sensitive sea areas" in the 1991 IMO Guidelines; "environmentally sensitive areas" used in IMO General Provisions on Ships' Routeing; and "marine and coastal environmentally sensitive areas" proposed by the European Commission.

237. There is also a need to coordinate the measures which are required under the various instruments dealing with the protection of ecosystems and habitats of "depleted, threatened or endangered species and other forms of marine life" (art. 194 (5) of the Convention); biological diversity (art. 8 (a) of the 1992 Convention on Biological Diversity);[195] rare or fragile ecosystems (Agenda 21, para. 17.31 (a) (v)); particularly sensitive sea areas (identified in accordance with the IMO Guidelines and referred to in Agenda 21, para. 17.31 (a) (iv)); and environmentally sensitive sea areas (General Provisions on Ships' Routeing). There are also provisions in a number of regional conventions, as well as

protocols dealing with marine protected areas and their designation. For example, the "Waters between Corsica, Liguria and Provence" have recently been designated as a "specially protected area of Mediterranean importance" in accordance with articles 8 and 9 of the 1995 Protocol to the Barcelona Convention Concerning Specially Protected Areas and Biological Diversity in the Mediterranean.[196] Specific mention is made therein of the framework provided by the United Nations Convention on the Law of the Sea.

H. Role of the General Assembly on ocean and law of the sea issues

238. Following the entry into force of the Convention, the General Assembly emphasized the principle stated in the preamble to the Convention that the problems of ocean space were closely interrelated and needed to be considered as a whole; pointed to the strategic importance of the Convention as a framework for national, regional and global action in the marine sector; stressed the importance of the annual consideration and review of the overall developments relating to the law of the sea; and decided, being the global institution having the competence to undertake such a review, "to undertake an annual review and evaluation of the implementation of the Convention and other developments relating to ocean affairs and the law of the sea" (resolution 49/28, preamble and para. 12).

239. The Secretary-General, in his first report under article 319 of the Convention (SPLOS/6, paras. 32-36), has drawn the attention of States Parties, the International Seabed Authority and the competent international organizations to section C.2 of decision 4/15 of the Commission on Sustainable Development dealing with section F of Chapter 17 of Agenda 21.[197] The Commission conducted its first review of the implementation of Chapter 17 at its fourth session (18 April-3 May 1996) (see also paras. 192-194 above).

240. The Commission recommended that there should be "a periodic overall review by the Commission of all aspects of the marine environment and its related issues, as described in chapter 17 of Agenda 21, and for which the overall legal framework is provided by the United Nations Convention on the Law of the Sea." The recommendation was based on the following needs: "(a) to better identify priorities for action at the global level to promote conservation and sustainable use of the marine environment; (b) for better coordination among the relevant United Nations organizations and intergovernmental financial institutions; (c) to ensure sound scientific, environmental, economic and social advice on these issues."

241. It is important to note also that the recommended review would cover other relevant elements of Agenda 21, in addition to chapter 17; preparation of the report would be coordinated by the Administrative Committee on Coordination (ACC) Subcommittee on Oceans and Coastal Areas; and that the results of such reviews by the Commission would be considered by the General Assembly under an item entitled "Oceans and the law of the sea". The Commission also recommended, with respect to the implementation of international fishery instruments, that FAO report to the United Nations, as well as to its Committee on Fisheries, noting that such a report "would be relevant to the review of ocean issues

recommended by the Commission".[198] These recommendations (see para. 195) are to be considered at the Special Session of the General Assembly in June 1997.

242. While there is an ever increasing need for comprehensive or wide-ranging reviews which bring together developments in various sectors and examine them from a multidisciplinary perspective, addressing also the interrelationships among issues and among legal and policy instruments,[199] there is an ever increasing problem as to potential duplication in reporting responsibilities and in consequential decision-making. This problem appears to be particularly marked in the marine sector, given the relatively large number of organizations and bodies with competence in one or more aspects.

VIII. MARITIME DISPUTES AND CONFLICTS

A. Settlement of disputes

Guinea-Bissau - Senegal

243. In 1991, Guinea-Bissau had filed with the International Court of Justice an application for the delimitation of "the whole of the maritime territories" of Guinea-Bissau and Senegal. On its first application, made in 1989, concerning the validity of the Arbitral Award of 31 July 1989, the Court had found the Award to be both valid and binding; the fact that the Award had not dealt with the boundaries of the exclusive economic zone and had not therefore delivered a complete delimitation of the maritime areas involved, was attributed to the wording of the 1985 Arbitration Agreement. On the second application in 1991, the Court held that it would be highly desirable that the elements of the dispute not settled by the 1989 Award should be resolved. Negotiations between the two Governments culminated in the Management and Cooperation Agreement between the Government of the Republic of Guinea-Bissau and the Government of the Republic of Senegal,[200] done at Dakar on 14 October 1993 and signed by the two Heads of State.

244. The 1993 Agreement provides, inter alia, for the joint exploitation, by the two parties, of a "maritime zone situated between the 268° and 220° azimuths drawn from Cape Roxo" (art. 1) and the establishment of an "International Agency for the exploitation of the zone" (art. 4). It will enter into force upon the conclusion of an agreement concerning its establishment and functioning (art.7). Such an agreement was concluded at Bissau on 12 June 1995,[201] and entered into force in December 1995.

245. In November 1995, both parties agreed to discontinue the proceedings at the Court, and in accordance with the terms of the Rules of Court, and with the consent of the parties, the President of the Court issued an Order (8 November 1995) discontinuing the proceedings and ordering that the case be removed from the list.

Qatar - Bahrain

246. In 1991, Qatar had filed an application with the Court instituting proceedings against Bahrain "in respect of certain existing disputes between

them relating to sovereignty over the Hawar islands, sovereign rights over the shoals of Dibal and Qit'at Jaradah, and the delimitation of the maritime areas of the two States" (see A/50/713, paras. 119-124). The original time limit (29 February 1996) fixed by the Court for each Memorial on the merits has been extended, at the request of Bahrain, to 30 September 1996. This Order of 1 February 1996 also reserved the subsequent procedure for further decision.

Cameroon - Nigeria

247. In 1994, Cameroon had filed an application instituting proceedings against Nigeria in a Case concerning the Land and Maritime Boundary between Cameroon and Nigeria, referring to the occupation of several localities on the Bakassi peninsula by Nigerian troops and requesting the Court to affirm its sovereignty over the peninsula and determine the course of the maritime frontier between the two States insofar as that frontier had not already been established in 1975. More precisely, Cameroon had requested the Court to "prolong the course of its maritime boundary with Nigeria up to the limit of the maritime zones which international law places under their respective jurisdiction". Both Cameroon and Nigeria have made declarations accepting the compulsory jurisdiction of the Court.

248. The Court had fixed the time limits for the submission of the Memorial of Cameroon and the Counter-Memorial of Nigeria. However, since Nigeria had filed certain preliminary objections to the jurisdiction of the Court and the admissibility of the claims of Cameroon, the Court suspended the proceedings on the merits of the case (by Order of 10 January 1996) and fixed 15 May 1996 as the time limit for Cameroon to file its written observations on the preliminary objections. Cameroon did so on 1 May 1996.

249. The Court received communications from both parties expressing concerns over incidents in the Bakassi peninsula, with Cameroon requesting the Court to indicate provisional measures on 12 February 1996. The Court held several hearings and then issued an Order on 15 March 1996 so indicating. The parties were to ensure that no action of any kind, and particularly no action by their armed forces, was taken which might prejudice the rights of the other in respect of whatever judgment the Court might render in the case, or which might aggravate or extend the dispute before it; that armed forces currently in the Bakassi peninsula did not go beyond the positions held prior to 3 February 1996; and that all relevant evidence within the disputed area was conserved. The Order also called on the parties to lend every assistance to the fact-finding mission which the Secretary-General sent to the Bakassi peninsula.

Eritrea - Yemen

250. The dispute between Yemen and Eritrea concerning sovereignty over the Greater and Lesser Hanish islands chain in the Red Sea near its entrance continued to be the subject of occasional armed confrontations between the two countries, although they have agreed in principle to submit the dispute to arbitration.

251. France, which had been mediating between the disputants, announced on 21 May 1996 that the Governments of Eritrea and Yemen had agreed to settle

peacefully through arbitration their dispute and have approved the terms of an accord on the principles of that arbitration.[202]

252. In July 1996, in a letter addressed to the Secretary-General (A/51/260, annex), Yemen objected to the publication by Eritrea of a map showing oil exploitation zones that included parts of the Red Sea, including parts referred to as "the Hanish-Zuqur quadrangle". In its letter, Yemen rejected any Eritrean claim that infringed upon Yemeni sovereignty and regarded the map's implications as a clear violation of the Agreement on Principles signed in Paris on 21 May 1996. It also indicated that it would ask France, which had undertaken to monitor the area in dispute, to take appropriate measures with regard to "this clear breach of the Agreement on Principles". Subsequently, the parties concluded an agreement setting out the procedures for arbitration, and ratified it on 3 October 1996.

B. Other developments

Russian Federation - Ukraine

253. The status of the Sea of Azov and Kerch Strait, and the demarcation of the Black Sea continental shelf, are now under discussion in the subcommission of the Russian-Ukrainian Commission on border delimitation, which held its first meeting in August 1996.[203]

Israel - Jordan

254. In accordance with the 1994 Treaty of Peace between Jordan and Israel,[204] the two sides have concluded an agreement on the delimitation of their maritime boundary in the Gulf of Aqaba.[205] In essence, the two agreed that the maritime boundary would follow the median line of the Gulf southward until the last point of the maritime boundary of the two countries.

Islamic Republic of Iran - United States of America

255. In a letter to the Secretary-General, the Islamic Republic of Iran has protested actions of the United States in "creating nuisances" and violating its airspace and territorial sea. Among the actions referred to was that of 8 February 1996, when an Iranian helicopter, in flight from an oil platform to Bushehr, was forced to return to the platform owing to the frequent warnings and preventive measures of United States warships. The Islamic Republic of Iran stated its belief that, while respecting and complying with Security Council resolutions, the proper implementation of those resolutions could not hinder its legitimate measures in its exclusive economic zone.[206]

Israel - Lebanon

256. The IMO Maritime Safety Committee has taken note of the statement by Lebanon that, since April 1996, the Israeli Navy had violated Lebanese territorial waters and committed acts of aggression and forcibly prevented commercial vessels from entering the port of Beirut and other commercial ports on the coast of southern Lebanon by imposing a maritime blockade. In its

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report, note is also taken of the position of several delegations that the Committee is not the proper forum for the consideration of security issues, but only of the technical aspects of maritime issues.[207]

The dispute over Persian Gulf Islands

257. The dispute between the Islamic Republic of Iran and the United Arab Emirates concerning sovereignty over the islands of Abu Musa, Greater Tunb and Lesser Tunb has continued to create tensions in the region. In a letter to the Secretary-General, the Islamic Republic protested overflight by United States aircraft over Iranian territory, including the Abu Musa[208] island; in response, the United Arab Emirates, in a letter to the Secretary-General, protested the allegation that the airspace over Abu Musa island belonged to the Islamic Republic, categorically rejecting any infringement of its sovereignty over Abu Musa island and reaffirming its willingness to settle the question of the three islands "through peaceful means, including recourse to the International Court of Justice."[209]

Japan - Republic of Korea

258. The establishment of exclusive economic zones by both Japan and the Republic of Korea has revived a dispute concerning sovereignty over two small islets, which lie some 150 miles offshore, halfway between the two States. The two islets - variously known as Takeshima (in Japan), and Tok To or Tok Do (in the Republic of Korea) - lie some 150 miles offshore. The islets have a land area of just 300 square yards, but are surrounded by rich fishing grounds.

China - Viet Nam

259. Viet Nam reported in August 1996 that useful talks had been held with China on demarcation of the Gulf of Tonkin, which the two countries share. The reported progress was made during a meeting of the joint working group on overlapping maritime zones off northern Viet Nam and south-east China which was held in Hanoi during August. The meeting was the seventh of the group since the two sides agreed to start negotiations on disputed areas in the gulf almost three years ago. The area has been a source of disputes over fishing rights and oil exploration.[210]

China - Japan

260. Since the 1970s, China and Japan have continued to dispute sovereignty over a group of five islets and barren rocks, known in Japan as Senkaku and in China as the Diaoyu, located about 200 miles east of the Chinese coast, and under the effective control of Japan. In July 1996, a group of Japanese nationalists built a lighthouse on the islands and flew a Japanese flag; in a strong protest, China maintained that the islands had been Chinese territory since ancient times.

261. It has been reported that a main reason the islands have become the focus of such attention is that surveys have suggested there may be large oil reserves nearby. Two Chinese marine survey vessels have conducted exploration activities in what Japan regards as Japanese waters around the islands.[211]

IX. CRIMES AT SEA

262. The United Nations Commission on Crime Prevention and Criminal Justice, at its fifth session, in May 1996, adopted an 11-article draft declaration on crime and public security for transmission to the General Assembly (A/C.3/51/L.11, annex), by which States would pledge a wide range of crime control measures. Provisions include commitments by States to combat serious transnational crimes, including illicit trafficking in narcotic drugs to prevent those who engage in such crimes from finding a safe haven on their territories.[212]

263. There are important maritime aspects to transnational crimes. Maritime vessels, including fishing and pleasure craft, as well as ports are being used extensively by crime syndicates for the smuggling of drugs, human beings, endangered species, arms and mercenaries.[213] Concerns extend also to illicit trafficking in nuclear materials and other radioactive substances, so that the European Community has asked the IMO Working Group on Ship/Port Interface to include in its work programme the question of the installation of systematic border controls at seaports in the region.[214]

A. Illicit traffic in narcotic drugs and psychotropic substances

264. The 1982 Convention on the Law of the Sea and the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances are closely linked. Article 108 of the 1982 Convention requires States to cooperate in the suppression of illicit traffic in narcotic drugs "contrary to international conventions", while the 1988 Convention refers in its article 17, paragraphs 1 and 11, to the "international law of the sea" and in paragraph 3 to "freedom of navigation in accordance with international law". As of 31 August 1996, 82 States were parties to both Conventions.

265. Given the worldwide increase in drug trafficking by sea, particular attention has been given to strengthening on a global basis the implementation of article 17 of the 1988 Convention. The valuable recommendations and report of the Working Group on Maritime Cooperation of the Commission on Narcotic Drugs, which met in 1994 and 1995 (see A/50/713, paras. 156-160), have been followed up by an expert group meeting (Vienna, 27-29 February 1996)[215] to develop training and technical assistance programmes in maritime law enforcement in the context of article 17. The meeting also examined the boarding and searching of different kinds of vessels and the seizure of illicit drugs, identifying areas which should be included in training curricula, such as enforcement strategies, the use of intelligence profiles, surveillance, controlled delivery, boarding, search and seizure, as well as post-seizure procedures.

266. The Commission on Narcotic Drugs considered that the work done in this area has contributed to the development of a cooperative framework for countering drug trafficking by sea and has urged the United Nations International Drug Control Programme (UNDCP) to prepare training guides, as well as other forms of

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technical cooperation, and to convene a regional training seminar for maritime law-enforcement personnel.[216]

267. Regional cooperation in this field is being strengthened generally. As part of their Plan of Action for Drug Control Coordination and Cooperation in the Caribbean, the States and Territories of the region have recently decided to consolidate the numerous bilateral cooperation agreements into a regional agreement that would include all Caribbean States, as well as France, Netherlands, the United Kingdom and the United States; and to develop a system to maximize and coordinate all maritime and aerial resources available in the region. The Regional Security System of the seven Eastern Caribbean countries has been requested to plan a framework to oversee all maritime aspects of drug operations in the Caribbean, with particular attention to the development of subregional coast guards.[217]

268. It is important for Governments to work with the shipping industry to ensure that its ships are not used to transport illicit drugs and that the crews are not involved in drug trafficking. The World Customs Organization is thus cooperating with industry bodies under Memoranda of Understanding, and the IMO Facilitation Committee is developing guidelines for the prevention of drug smuggling on ships engaged in international trade for submission to the IMO Assembly in 1997.[218]

B. Smuggling of aliens

269. The smuggling of aliens is continuing unabated, and with no laws in place in some countries to punish the offenders, the business is said to be booming. There are several established networks stretching from the Balkans to the Baltic: Central Asians travel through the Russian Federation to the Baltic States and on to the Scandinavian countries; the Balkan route, favoured by Africans and East Asians, runs from Turkey to Hungary, with Northern Europe as its destination.[219] But the web also extends beyond Western Europe to the United States and Canada.[220] According to a recent report, Western Europe, West Africa, Zaire, the United Republic of Tanzania, South Africa, Peru and Colombia are currently the world's hot spots for stowaways. In many instances around the world, stowaways often have the assistance of criminal organizations in getting on board, and containers are by far the most common hiding place.[221]

270. The IMO Assembly, at its last session, noted with concern the considerable risk not only to the stowaways themselves but also to seafarers who, owing to the large scale on which some of these operations are being carried out, may be overwhelmed by the number of stowaways on board.[222] The Facilitation Committee subsequently approved a circular on "Guidelines on the allocation of responsibilities to seek the successful resolution of stowaways cases",[223] and pending their adoption by the IMO Assembly in 1997, recommended their immediate use by all parties concerned.[224] The guidelines offer practical guidance as to the procedures to be followed to ensure that the return and repatriation of a stowaway is done in an acceptable and humane manner.

271. In determining what further action could be taken, the United Nations Commission on Crime Prevention and Criminal Justice was invited to explore "the

important issue of the law of the sea"; maritime control is of special importance given the known volumes of illegal population movements that occur by sea and the fact that maritime and coastal border controls are central to preventing and detecting a good deal of the illegal global trafficking.[225] A draft resolution calling for action to combat the smuggling, including streamlined procedures for international inspection in the territorial sea of vessels suspected of such activities, was tabled at the May session of the Commission but was later withdrawn to allow for extended discussion of other items.[226]

C. Piracy and armed robbery at sea

272. The number of incidents of piracy and armed robbery against ships reported to IMO continues to rise. A regional analysis by IMO of reported incidents during 1995 shows that out of 132 incidents worldwide, 68 took place in the China Sea; 20 in South America; 15 in the Indian Ocean; 12 in the Strait of Malacca; 11 in East Africa; 4 in West Africa; and 2 in the Mediterranean Sea. The majority of these incidents took place at sea: 66 in territorial seas, and 44 beyond.[227]

273. Two recent incidents of hijacking have been reported to IMO, one off the Thai/Cambodian border,[228] and the other in the Turkish territorial sea.[229] It was possible to recover the vessels in both incidents. However, in the case of the former incident, where the vessel and its cargo with the pirates on board were found three weeks later in a port of southern China, the International Maritime Bureau (of the International Chamber of Commerce) informed IMO that it had taken more than six months for the shipping industry to resolve the situation with the authorities, in spite of the existence of indisputable evidence giving the true identity of the ship and the ownership of the cargo. The Bureau suggested that the Maritime Safety Committee consider whether any recommendations could be made for dealing with such situations, suggesting that the 1988 International Convention on the Suppression of Unlawful Acts against the Safety of Navigation was insufficient for this purpose.[230]

X. DEVELOPMENT OF NON-LIVING MARINE RESOURCES

274. The past year witnessed important developments relating to non-living marine resources, both fuel and non-fuel minerals. After years of sluggish activity, there are signs of a marked revival of the offshore oil and gas industry worldwide: 1996 is expected to see the highest expenditure for exploration and production in more than five years, and the high growth period for the offshore industry may last till 2002, experts believe.[231] The move into deeper waters is a clear trend in almost every country worldwide. For example, 40 per cent of the leases bid in the lease sale in the United States for the Gulf of Mexico in April 1996 were at water depths below 2,700 feet, the deepest at 9,280 feet; and Nigeria has just opened for bidding six newly created leases for tracts lying at depths of 3,900 to 8,200 feet.[232] At present, the deepest waters at which exploration drilling has been carried out are about 7,000 feet, but drilling at depths of up to 10,000 feet is expected in the near future.

Currently, the world's deepest oil well is in offshore Brazil, at a depth of about 3,300 feet.

275. With respect to coal, the other fossil fuel mineral extracted from marine sources, offshore coal mining commenced more than 400 years ago and is still being carried out through undersea extensions of mine shafts sunk on land or shafts sunk from artificial islands. Possibilities of exploiting coal energy by in situ gasification are being considered.[233]

276. Research interest is being shown also in the recovery of gas hydrates, frozen compounds of methane. Vast deposits are held at high pressure 600 to 1,500 feet under the ocean floor on continental shelves around the world. Scientists have estimated that the organic carbon bound up in ocean floor hydrates is twice that found in all recoverable and non-recoverable oil, gas and coal deposits on earth.[234] Scientists are researching how to mine these deposits without causing an environmental disaster, particularly since an accident could cause ocean floor avalanches, in turn possibly leading to a sudden release of methane, which has a greenhouse effect many times that of carbon dioxide.[235]

277. Research and development activities with respect to the non-conventional and renewable energy sources - waves, tides, currents, offshore wind and ocean thermal gradients - are still at experimental stages. While their huge potential is widely recognized (e.g., the world's total exploitable wave energy resource is conservatively estimated at 400 gigawatts),[236] economical exploitation at a large scale has yet to be achieved. While a British company in 1995 installed a wave-powered generator anticipated to produce enough electricity to supply 2,000 homes, the United States National Oceanic and Atmospheric Administration (NOAA) this year abandoned the 15-year-old ocean thermal energy conversion (OTEC) licensing programme because no applications had been received.[237]

278. Compared to the offshore fuel industry, the size of the offshore non-fuel industry, currently limited to shallower waters, is relatively small, but it is growing rapidly in many parts of the world.

279. Sand and gravel are perhaps the most important such offshore mineral resources currently exploited. Commercial exploitation of these construction materials is taking place in Western Europe and Asia and off the eastern United States. Coastal quarries are an important new feature in some areas, for example, Norway.

280. Dredging of placer deposits is taking place in many countries, for example: tin, in Indonesia, Thailand and Malaysia; and gold in the Philippines and Alaska. Beach and near-shore deposits of mineral sands (ilmenite, rutile, zircon, monazite) are mined in Australia, Malaysia, India, China, Sri Lanka, South Africa and the United States. Offshore diamond exploration has been taking place off southern Africa for many years and is under way off north-western Australia. Phosphate, used for fertilizer, is also derived from offshore sources, and although most of the world supply of phosphate currently comes from land-based deposits, the very rapid increase in demand (500 per cent growth in world production in 40 years) may lead to an increasing reliance on marine sources.[238]

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281. Marine mineral resources attracting commercial interest in deeper waters, both within and outside zones under national jurisdiction, are polymetallic nodules on the ocean floor, cobalt-rich manganese oxide crusts on bedrock, polymetallic sulphides along ocean floor spreading centres and metalliferous red clay. None are commercially exploited at this time, but considerable research and/or development activity has been devoted to these resources.

282. With respect to polymetallic nodules, research and development initiated in the 1970s is continuing currently at a slow pace, concentrating on four critical areas: exploration, design and development of a pilot mining system, extraction of the metals of interest (copper, nickel, cobalt and manganese), and environmental baseline studies. Japan is planning a pilot system test of the mining technology in 1997. India projects a semi-industrialized phase of metal extraction in 1997. The Republics of Korea and China are also active in research and development and exploration activities. The mining entities involved were registered as "pioneer investors" by the international community, under the regime created with the adoption of the 1982 Convention on the Law of the Sea.[239] Though the initial research and development was carried out by Western countries, research on deep ocean mining in the United States and in many of the European countries practically ceased in the late 1980s and 1990s. It is expected that for the next 10 years, the Pacific Rim countries will be most active in research and development, mainly because of their late start.[240]

283. The cobalt-rich manganese oxide crusts can be found at depths of 2,500 to 8,000 feet, distributed in various forms and sizes on the ocean floor above the substrates as well as buried beneath the sediment. A recent survey reveals that the crusts are also located below the ocean floor, buried beneath the calcareous sediment layer. Confirmation of the existence of the crust deposits beneath the sediments has raised the resource estimates three to five times above previous evaluations.[241]

284. Survey and research work on polymetallic sulphides has been going on for nearly 15 years. Recent studies have considerably advanced the knowledge of ore deposit geology, which in turn contributes to the discovery of these types of deposit on land. Recently, research funding was guaranteed for at least the next decade for the most active programme, a multinational programme linking scientists from 15 countries.[242]

285. Finally, there has been a new interest in desalination of sea water in view of water shortages in many countries. The General Conference of IAEA has requested the Director-General to assign appropriate priority to the nuclear desalination of sea water in preparing the Agency's programme and budget and has also called for the establishment of an advisory body on nuclear desalination to develop appropriate measures to assist member States in developing demonstration projects.[243]

XI. MARINE SCIENCE AND TECHNOLOGY

A. Marine scientific research

1. Climate change and the oceans

286. The Intergovernmental Panel on Climate Change (IPCC) completed its second assessment report in December 1995.[244] The report deals with the degree of climate change projected to occur as a result of human activities and, inter alia, discusses the vulnerabilities of ecosystems to a possible rise in the sea level.

287. The global sea level has risen by between 10 and 25 centimetres over the past 100 years, and much of the rise may be related to an increase in global mean temperature. Models project a further increase in sea level of approximately 50 centimetres by 2100 as a result of thermal expansion of the oceans and melting of glaciers and ice sheets. This estimate is approximately 25 per cent lower than the comparable estimate in 1990, owing to the lower temperature projection, but also reflecting improvements in the climate and ice-melt models. The range in the projections of sea-level rise by 2100, reflecting the high and low scenarios of emission rates and climate and ice-melt sensitivities, varies from about 15 to 95 centimetres. IPCC agreed that even if concentrations of greenhouse gases are stabilized by 2100, the sea level would continue to rise at a similar rate for some centuries beyond that time. The Panel also notes that confidence in regional projections remains low; regional sea-level changes may differ from the global mean value owing to land movement and ocean current change.[245]

288. In general, coastal systems are expected to vary widely in their response to climate and sea level changes. The coastal ecosystems particularly at risk are saltwater marshes, mangrove ecosystems, coastal wetlands, sandy beaches, coral reefs and atolls and river deltas. The kinds and the severity of changes that would most likely occur in the salinity of estuaries and freshwater aquifers, altered tidal ranges in rivers and bays, changes in sediment and nutrient transport and in the pattern of chemical and microbiological contamination would have major impacts on fisheries, biodiversity, freshwater supplies and tourism, all important factors necessary for sustainable development. These impacts would be coupled with modifications in the coastal oceans and inland waters that have already resulted from pollution, physical modification and material inputs from human activities.

289. Besides the projected increase in the sea level, climate change could also lead to altered ocean circulation, vertical mixing, wave climate and reductions in the sea-ice cover. Nutrient availability, biological productivity, the structure and function of marine ecosystems, and heat and carbon storage capacity may be affected, which would in itself have an impact on the climate system, with obvious implications for coastal regions, fisheries, tourism and recreation, transport, offshore structures and communication.

290. It should be noted that the Commission on Sustainable Development specifically noted the interrelationships between chapters 9 (Protection of the atmosphere) and 17 (Protection of the oceans) in view of the exchange of matter

and energy between atmosphere and ocean and their combined influence on marine and terrestrial ecosystems. The Commission therefore called for a more integrated approach to the adoption of protective measures.

2. Marine environmental assessments

291. The Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP), which prepared the highly influential 1990 "State of the marine environment" report, has now created a standing Working Group on Marine Environmental Assessments. It will embark on a new global assessment, to be completed by 2002, and the first step towards the next assessment will be the preparation of a report on land-based sources and activities affecting the quality and uses of the marine, coastal and associated freshwater environment, due in 1998, as part of UNEP's responsibilities under the Global Programme of Action on land-based activities and its new integrated water programme.[246] GESAMP's decision to concentrate efforts on the preparation of periodic assessments also came in response to the recommendation of the Commission on Sustainable Development concerning GESAMP's basic purposes (see para. 194 (e) above).

292. This is a major undertaking by the sponsoring organizations (IMO/FAO/UNESCO-IOC/WMO/WHO/IAEA/UNEP/United Nations), GESAMP members, the members of the new Working Group, as well as by the many other experts around the world who contribute their time and knowledge to the work of GESAMP. Concerns have consequently been expressed as to the availability of adequate financial resources, particularly in the relatively short time allowed.

293. GESAMP will continue to keep under continuous review the condition of the marine environment, reporting regularly on apparent trends and emerging issues. At its twenty-sixth session (25-29 March 1996),[247] it drew particular attention to such issues as the effects of fishing, which in some localities may outweigh the environmental effects of contaminant discharges in terms of their ecological significance; to the increase in phytotoxin occurrences and human exposures, particularly chronic exposures; and, given the proliferation of coastal management programmes and projects, to the urgent need for an accepted evaluation methodology for assessing their impacts and efficacy.[248] GESAMP also expressed its concerns that much of the focus on marine biodiversity is directed at the deep sea, while the most urgent threats concerning marine biodiversity losses are in coastal areas, so that the priorities for action should be research on and assessment of key coastal habitats; the development of strategies for their conservation as parts of integrated coastal management programmes; studies of effects of fishing on biodiversity; and development of methods for rapid assessment of coastal biodiversity.

294. Attention is drawn to the statement made by GESAMP in 1995 expressing its concern as to recent data on the effects of a wide variety of different chemicals (including DDT, PCB, dioxins, PAH) which are found to mimic natural oestrogens (hormones). GESAMP called for new efforts to study the impacts of "oestrogen mimic" chemicals (also known as "endocrine disruptors") on the marine environment.[249] Concerns continue to mount, and action is being taken to improve knowledge in this area: OECD is reviewing chemical testing to take account of

the potential for endocrine disruption; and the subject has been added to the agenda of the Intergovernmental Forum on Chemical Safety. It may be noted that not all endocrine disruptors are persistent organic pollutants (see para. 200), so that arguments are being made for additional specific action on this category of chemicals.

B. Marine technology

295. As a post-cold war dividend, marine science benefited immensely from the release of vast amounts of oceanographic data and access to new oceanographic equipment. The data from systematic surveys by the United States Navy of most of the world oceans over several decades, are now in the public domain, yielding new information on ocean depth, sediment composition, marine gravity, seabed magnetism, water temperature, salinity, sea-surface height, ice depth, ice shape, light transmissibility and bioluminescence. Moreover, data collected by various methods (e.g., towed sensors, submarines, fixed and floating buoys, remote sensing and satellites) were combined to produce yet newer data with potential dramatic benefits in many fields: environmental studies, geology, climatology, weather forecasting, pollution studies, marine engineering, commercial fisheries management and deep sea oil and mineral exploration. It is estimated that so far about 10 to 20 per cent of United States Navy data has been declassified; eventually about 95 per cent of the data would be made public.[250]

296. The oceans were not considered to be as well mapped as Venus, until the release this year of the first global map of the ocean floor by the United States National Oceanic and Atmospheric Administration (NOAA).[251] It was based on recently declassified satellite data acquired by the United States Navy, combined with recent readings from a European satellite. Besides being of great scientific importance for studies of active geological processes in deep ocean basins, including plate tectonics, as well as climate studies, the map has proved of commercial value: already, fishermen use it to locate seamounts that produce upwellings of deep, nutrient-rich water that in turn supports abundant living resources; industries use it to find the kinds of rocks that overlay oilfields and the kinds of volcanic eruptions that form undersea deposits of copper, iron, silver and gold.

297. There is now a global network of hundreds of undersea microphones (or hydrophones), known as Sosus (sound surveillance system), originally deployed by the United States Navy in the early 1990s. During the past year, many more institutions and private companies have gained access to the system, which can "hear" noises over distances of hundreds, even thousands of miles. Expectations of the system are high, e.g., to study seaquakes and volcanic activities, monitor distant nuclear blasts, track ships involved in drift-net fishing, as well as movements of marine mammals, and to avoid maritime collisions.[252] An early benefit for science came when a research ship could be quickly deployed to collect data and samples of hot water resulting from the hundreds of seaquakes which were detected off the west coast of the United States. It was only the second time, the first being in 1993, that seismic disturbances below the sea could be studied so directly.[253]

298. Three-dimensional seismic data acquisition, modelling and interpretation represent a recent technological innovation, coming as a direct consequence of the growth in computer technology, particularly parallel processing. The offshore industry has also begun to benefit from three-dimensional seismic data, greatly reducing the number of drilling operations and increasing the success rate, so that "no other factor has been more influential in the growth of (offshore oil and gas) production internationally."[254] Deeper water, deeper geological targets and complex stratigraphy of frontier areas present more problems for accurate acquisition of three-dimensional seismic data than do normal depths. Technology has now been developed to address these problems.

299. The move of the offshore oil and gas industry to deeper waters (see also para. 274) entails major technological development. Floating drilling operations are under new investigation,[255] as is production technology, where one concept is to automate most of the production technology and locate it on the ocean floor, linking up a number of these semi-autonomous wells to a central hub, and passing the combined output on to a conventional offshore platform, where the oil and gas would be separated. One platform would then suffice for dozens of wells over hundreds of square miles.[256] Another approach under development would have application as an independent production platform on deep-sea fields having smaller reserves or as a utility, satellite or early production platform for larger deep-water discoveries. In yet another approach, a multi-purpose tanker would be designed to serve as production vessel and shuttle tanker.[257]

300. Deep-water development faces substantial capital costs and lead time before initial production can occur. In addition, uncertainties about ultimate production rates and total reserves increase risks. There is thus considerable interest in combined, multifunctional systems. A key concept in reducing the costs of deep-water operations is the light drilling rig, so that technological development focuses on combining a lighter drilling rig with a vessel used for sub-sea completion of a production well, having the deck-load capacity of a monohull and motion characteristics of a semi-submersible. Another development has been the design of a single mobile unit capable of drilling, early production, testing, storage and offloading.[258]

301. The development of hard minerals in near-shore areas is expected to be greatly facilitated by a new technology that can cover a wider area at much less cost and time than current technology: a Dutch company has developed a system for screening and bulk sampling of ocean floor minerals to depths of 400 feet, which is currently being used off southern Africa to sample and recover diamond-bearing sediments.[259]

XII. TECHNICAL COOPERATION AND CAPACITY-BUILDING IN THE LAW OF THE SEA AND OCEAN AFFAIRS

A. The Hamilton Shirley Amerasinghe Fellowship Programme

302. Under this fellowship programme, Hamilton Shirley Amerasinghe fellows pursue postgraduate-level research and training in the field of the law of the sea, its implementation and related marine affairs at a participating university

of their choice. They also have the opportunity to work as interns in the Division for Ocean Affairs and the Law of the Sea for up to three months. Ten awards and one special award have been made under this programme since 1986.[260] The Advisory Panel recommended Ms. Alisi-Numia Tamoepeau, Acting Solicitor-General for the Kingdom of Tonga, for the tenth annual award.[261]

303. The United Kingdom again made a special contribution to fund a fellowship under the programme.[262] The Advisory Board welcomed this contribution to the 1996/97 school year and once again expressed the hope that this could become an ongoing commitment. It also urged other countries to consider making similar contributions.

304. The Panel has again called attention to the very high calibre of the candidates under the programme, appealing for additional funding to support the programme and encouraging universities to award fellowships to all finalists. It also decided to designate selected candidates as "finalists", encouraging them to include this information when applying directly to universities for fellowships. As a consequence, 14 finalists for the 1995 award have been invited to apply for scholarships by the newly inaugurated Rhodes Academy of Ocean Law and Policy, which has expressed an interest in participating in the fellowship programme. Other new participating institutions, both located in the United Kingdom, are the Oxford University Faculty of Law and the Southampton University Faculty of Law. The Institute of International Studies of the University of Chile has also expressed an interest in an association with the programme.

B. The TRAIN-SEA-COAST Programme

305. The TRAIN-SEA-COAST Programme was started in 1995 (see A/50/713, paras. 251-256), with the Division for Ocean Affairs and the Law of the Sea providing the Central Support Unit. The programme has seen good progress, particularly in the production of the first standardized training package by the Course Development Unit located in the Philippines at the International Centre for Living Aquatic Resources Management.

306. This new "National course on integrated coastal zone management" (ICZM), designed for middle-level managers and supported by various government departments and institutions, is also part of a broader project (supported by the Rockefeller Brothers Fund) to develop a pool of coastal management practitioners who will work together on an integrated coastal plan for each of the 14 regions in the Philippines and develop an informal network of institutions involved in ICZM in South-east Asia.

307. Despite the financial constraints in most course development units and the shortage of course developers, it is anticipated that by early 1997 four more training packages will be available for sharing among the network. The Division is pursuing further funding sources for the programme as a whole and is assisting the different units in obtaining additional resources.

308. Also of note is the workshop held by the Unit in Brazil (at the Foundacao Universidade do Rio Grande) to identify national priorities for marine and

coastal management, and consequently, the training needs. This was the first time that a thorough training needs analysis was undertaken at the national level using the TRAIN-SEA-COAST methodology; it will be of considerable importance for other units.[263]

309. In keeping with the need to promote integrated management of marine and coastal areas, the TRAIN-SEA-COAST Programme cooperates closely with its sister programmes: TRAINFORTRADE in the field of tourism; and CC:TRAIN in the field of climate change and ICZM. The Division also works closely on the development of the programme with UNEP, particularly in respect of its Strategic Initiative on Ocean and Coastal Area Management. This initiative will focus on the development of training courses through the programme and will encourage the exchange of knowledge and experience among UNDP projects.[264]

Notes

[1] These States are: Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Barbados, Belize, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Cameroon, Cape Verde, China, Comoros, Cook Islands, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Djibouti, Dominica, Egypt, Fiji, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Iceland, India, Indonesia, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Myanmar, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Norway, Oman, Panama, Paraguay, Philippines, Republic of Korea, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Saint Lucia, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Somalia, Sri Lanka, Sudan, Sweden, The former Yugoslav Republic of Macedonia, Togo, Tonga, Trinidad and Tobago, Tunisia, Uganda, United Republic of Tanzania, Uruguay, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia and Zimbabwe.

[2] Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122.

[3] General Assembly resolution 48/263, annex.

[4] A/CONF.164/37.

[5] The 67 States are: Algeria, Argentina, Australia, Austria, Bahamas, Barbados, Belize, Bolivia, Bulgaria, China, Cook Islands, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Fiji, Finland, France, Georgia, Germany, Greece, Grenada, Guinea, Haiti, Iceland, India, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Lebanon, Malta, Mauritania, Mauritius, Micronesia (Federated States of), Monaco, Mongolia, Myanmar, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Norway, Panama, Paraguay, Republic of Korea, Samoa, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Sri Lanka, Sweden, The former Yugoslav Republic of Macedonia, Togo, Tonga, Trinidad and Tobago, Uganda, Yugoslavia, Zambia and Zimbabwe.

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[6] Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/121, annex I.

[7] In accordance with its article 7, paragraph 3.

[8] Section 1, para. 12 (a), of the Annex to the Agreement.

[9] Bangladesh, Belgium, Cambodia, Canada, Chile, European Community, Gabon, Luxembourg, Malaysia, Nepal, New Zealand, Poland, Russian Federation, South Africa, Suriname, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America.

[10] They are: Bahrain, Botswana, Cameroon, Cape Verde, Cuba, Egypt, Ghana, Guyana, Honduras, Indonesia, Iraq, Kuwait, Marshall Islands, Oman, Philippines, Sudan, Tunisia, United Republic of Tanzania and Viet Nam.

[11] These States are: Afghanistan, Albania, Andorra, Armenia, Belarus, Benin, Bhutan, Brunei Darussalam, Burkina Faso, Burundi, Congo, Eritrea, Estonia, Ethiopia, Hungary, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Liechtenstein, Madagascar, Maldives, Mozambique, Pakistan, Papua New Guinea, Qatar, Republic of Moldova, Solomon Islands, Swaziland, United Arab Emirates and Vanuatu.

[12] See ISBA/C/9.

[13] See press release SEA/1532 of 19 August 1996.

[14] Argentina, Austria, Australia, Bangladesh, Belize, Brazil, Canada, Côte d'Ivoire, Denmark, Egypt, European Community, Fiji, Finland, Germany, Greece, Guinea-Bissau, Iceland, Indonesia, Israel, Italy, Jamaica, Luxembourg, Marshall Islands, Mauritania, Micronesia (Federated States of), Morocco, Namibia, Netherlands, New Zealand, Niue, Norway, Pakistan, Papua New Guinea, Philippines, Portugal, Russian Federation, Saint Lucia, Samoa, Senegal, Sweden, Tonga, Ukraine, United Kingdom of Great Britain and Northern Ireland (signed on 4 December 1995 on behalf of its territories and on 27 June 1996 on behalf of the United Kingdom), United States of America, Uruguay and Vanuatu.

[15] Article 319(2)(e); Annex II, article 2(3); and Annex VI, article 4(4) and article 19(1).

[16] For the agenda and organization of work of the Meetings of States Parties to date, see documents SPLOS/1/Rev.1 and SPLOS/CRP.1, 2, 3, 4 and 7.

[17] Each maritime zone is measured from the same baselines.

[18] "Miles" throughout this document refers to nautical miles.

[19] The 17 States are: Antigua and Barbuda, Bahamas, Cape Verde, Comoros, Fiji, Indonesia, Jamaica, Kiribati, Mauritius, Papua New Guinea, Philippines, Saint Vincent and the Grenadines, Sao Tome and Principe, Solomon Islands, Trinidad and Tobago, Tuvalu and Vanuatu.

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[20] See Law of the Sea Information Circular, Nos. 3 and 4.

[21] Ibid.

[22] Japan, upon becoming a State Party on 20 July 1996 has amended its existing laws and adopted new legislation relating in particular, to the contiguous zone, the exclusive economic zone and the continental shelf. The texts of legislation are not yet available to the Division.

[23] For the text of the Act, see Law of the Sea Bulletin, No. 31 (1996).

[24] For the text of the declaration, see ibid., No. 32 (1996).

[25] China deposited its instrument of ratification on 7 June 1996 and made a declaration contained in ibid., No. 31 (1996).

[26] Text to be reproduced in ibid., No. 32 (1996) (in press).

[27] Ibid.

[28] Ibid.

[29] Ibid.

[30] See Law of the Sea Bulletin, No. 31 (1996). The 1993 Iranian Act is contained in ibid., No. 24 (1993).

[31] Ibid., No. 24 (1993).

[32] Algeria deposited its instrument of ratification on 11 June 1996 and Mauritania, on 17 July 1996.

[33] China, Japan, Jordan, Mongolia, Myanmar, Nauru, New Zealand, Republic of Korea and Saudi Arabia.

[34] Bulgaria, Czech Republic, Finland, France, Georgia, Ireland, Monaco, Netherlands, Norway, Slovakia and Sweden.

[35] See Decree No. 63-403 of 12 October 1963 establishing the breadth of territorial waters and Decree No. 72-194 of 5 October 1972 for the peacetime regulation of the passage of foreign warships through the territorial waters and of their port calls, reproduced in The Law of the Sea: National Legislation on the territorial sea and the right of innocent passage and the contiguous zone (United Nations publication, Sales No. E.95.V.7), pp. 11-18. In addition to Algeria, 16 other States require a prior authorization or consent for a warship to exercise the right of innocent passage in the territorial sea. These States are: Antigua and Barbuda, Bangladesh, Barbados, China, Grenada, Islamic Republic of Iran, Maldives, Myanmar, Pakistan, Romania, Saint Vincent and the Grenadines, Somalia, Sri Lanka, Syrian Arab Republic, United Arab Emirates and Yemen. Other States require prior notification, such as Denmark, Estonia, Guyana, India, Malta, Mauritius, Republic of Korea, Seychelles and Sweden.

[36] Text of the statement to be reproduced in Law of the Sea Bulletin, No. 32 (1996) (in press).

[37] See note 34 above.

[38] Law of the Sea Bulletin, No. 32 (1996) (in press).

[39] Costa Rica, Egypt, Fiji, Finland, France, Germany, Greece, Honduras, Italy, Jamaica, Kenya, Malaysia, Malta, Netherlands, Nigeria, Sierra Leone, Sudan, Sweden, Tonga, Trinidad and Tobago and Yugoslavia.

[40] Angola, Benin, Cameroon, Congo, Ecuador, El Salvador, Liberia, Nicaragua, Nigeria, Panama, Peru, Sierra Leone, Somalia, Syrian Arab Republic and Togo.

[41] Namely, the legislation of Brazil, Cape Verde, Colombia, Djibouti, Equatorial Guinea, Guatemala, Guyana, India, Kenya, Maldives, Mauritius, Morocco, Myanmar, Pakistan, the Philippines, Saint Kitts and Nevis, Saint Lucia, Seychelles, Sri Lanka, Turkey, Vanuatu, Viet Nam and Yemen.

The 1995 Federal Law of the Russian Federation provides for the exercise of its jurisdiction over marine scientific research on the continental shelf, but without any reference to the Convention, which would limit the rights provided for therein, in particular to accord with article 246 of the Convention.

[42] The German declaration is reproduced in Law of the Sea Bulletin, No. 27 (1995), p. 6. The Czech declaration will be reproduced in ibid., No. 32 (1996) (in press).

[43] A State Party is entitled to nominate two experts in each field. Their competence may be legal, scientific or technical. See article 2(3) of Annex VIII of the Convention.

[44] IOC has received nominations also from the following countries, not yet parties to the Convention: Chile, Colombia, Gabon, Malaysia, Mozambique, Pakistan, Romania, Russian Federation and Ukraine.

[45] See article 161(1) of the Convention and sect. 3, para. 15, of the annex to the Agreement.

[46] For details, see United Nations press release SEA/KIN/9/Rev.1 of 9 March 1995.

[47] For the revised budget proposal, see ISBA/14.

[48] ISBA/A/9 and ISBA/C/5, sect. A.

[49] A/C.5/51/21.

[50] The decision of the Assembly of the Authority concerning its observer status at the United Nations (ISBA/A/13) also emphasizes "the importance of the annual consideration and review by the General Assembly of overall developments

pertaining to the implementation of the Convention, as well as of other developments relating to the law of the sea and ocean affairs".

[51] For the various decisions of the Assembly and the Authority, see ISBA/A/13, ISBA/A/15, ISBA/A/L.10, ISBA/C/3, ISBA/C/8 and ISBA/C/9.

[52] This organization was granted observer status at the fifth Meeting of States Parties.

[53] A draft relationship Agreement between the Tribunal and the United Nations was recommended by the Preparatory Commission for the International Seabed Authority and the International Tribunal for the Law of the Sea; see LOS/PCN/152 (vol. I), p. 132. The Preparatory Commission reviewed the issue of relationship arrangements between the Tribunal and the Authority and approved the application of certain principles; see ibid., p. 142.

[54] See SPLOS/14.

[55] SPLOS/3.

[56] SPLOS/10.

[57] The Statute of the Tribunal provides that in the first election, the Secretary-General will draw lots to determine the terms of office of the judges (Annex VI, article 5(2)).

[58] In accordance with article 5(3) of the Statute of the Tribunal.

[59] The budget, adopted by decision SPLOS/L.1, is set out in SPLOS/WP.3/Rev.1.

[60] SPLOS/L.1.

[61] United Nations staff regulations will also apply. The Tribunal was also requested to apply to the United Nations Joint Staff Pension Fund, with the understanding that such request would need the sponsorship of States Members of the United Nations in the General Assembly.

[62] SPLOS/WP.2 and Add.1. The next meeting will also consider a proposal by Germany concerning taxes and customs duties.

[63] The Statement of Understanding is reproduced in the Final Act of the Third United Nations Conference on the Law of the Sea; Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/121, annex II.

[64] SPLOS/CLCS/INF/1.

[65] SPLOS/5, para. 20.

[66] SPLOS/L.2.

[67] SPLOS/CLCS/WP.1.

[68] See IMO document C 76/4.

[69] Adopted by resolution MSC.42(64). The amendments incorporate as mandatory for parties to SOLAS 74, the Code of Safe Practice for Cargo Stowage and Securing.

[70] Set out in annex 1 to resolution MSC.31(63). Annex 2 to the resolution includes amendments that are expected to enter into force on 1 January 1998.

[71] Resolution MSC.33(63).

[72] Resolution A.736(18).

[73] At its nineteenth session the IMO Assembly subsequently adopted resolutions on particular safety aspects of ro-ro passenger ships and ferry operations.

[74] See IMO documents MEPC 37/22, paras. 11.4-11.11, and annex 13 of MEPC 37/22, containing resolution MEPC 65(37) concerning amendments to regulation 2 and new regulation 9 of MARPOL annex V.

[75] See IMO documents MEPC 37/22, para. 13.6, MEPC 37/WP.9/Add.1, para. 17.9, and MEPC 38/WP.17, which contains the text of the draft annex. There continue to be divergent views as to the figure of the global cap to be placed on the sulphur content in oil (MEPC 37/22, para. 13.43).

[76] IMO document, LEG 73/14, paras. 14-18.

[77] IMO document MSC 66/24, paras. 10.14 and 10.20-10.26. The Committee also made progress towards the completion of the international SAR plan.

[78] IMO document MSC 67/2/1, para. 2.2.

[79] IMO document MEPC 37/22/Add.1, annex 10.

[80] IMO documents C 74/22(b)/1; C 74/SR.4; C 74/27(c), paras. 225-228; C/ES.18/10, paras. 270-273; and A 19/27, paras. 9-11.

[81] Report of the sixty-sixth session, IMO document MSC 66/24, annex 26. The MEPC has endorsed these interim guidelines.

[82] IMO Assembly resolution A.739(18).

[83] Assembly resolution A.744(18).

[84] Assembly resolution A.600(15).

[85] Resolution MSC.47(66). See IMO document MSC 66/24, annex 2.

[86] See the OECD report, circulated as IMO document MSC 66/12/1, and extensively quoted by IMO in its statement on World Maritime Day 1996, "IMO: seeking excellence through cooperation".

[87] A message from the Secretary-General of IMO on the World Maritime Day 1995.

[88] Proposal submitted by the United Kingdom and Australia; IMO document FSI 4/3/3.

[89] Proposal by Canada; IMO document FSI 4/3/1.

[90] Proposal submitted by Germany; IMO document FSI 4/3/4.

[91] The 1994 amendments to annexes I, II, III and V of MARPOL 73/78 provide the legal basis for port State control of operational requirements; they entered into force on 3 March 1996.

[92] Official Journal of the European Communities, vol. 38, No. L157 (7 July 1995).

[93] IMO document FSI 4/7/2, para. 3.

[94] European Parliament resolution on safety at sea, adopted on 1 February 1996; and resolution on the Sea Empress disaster, adopted on 27 March 1996; IMO documents MSC 66/20/1 and MEPC 38/INF.14.

[95] IMO document FSI 4/18, paras. 7.9 and 7.10. A comparative table of port State control agreements is contained in IMO News, No. 2 (1996).

[96] Note by the United Kingdom; IMO document MSC 66/7/5.

[97] "MARPOL - How to enforce it. Manual on compliance assurance programme for the effective enforcement of the Convention", submitted by the IMO secretariat to the Subcommittee on Flag State Implementation; IMO document FSI 4/3/2, para. 9.4.

[98] IMO document FSI 4/4/2.

[99] Ministerial Declaration of the Fourth International Conference on the Protection of the North Sea (June 1995); IMO document MEPC 37/INF.14, annex 3, sect. 6.

[100] Parties to the Bonn Agreement have decided to examine the possible consequences of the entry into force of the Convention and the possible establishment of new exclusive economic zones, e.g., on the delimitation of zones of responsibility under the Agreement; see IMO document MEPC 37/INF.33.

[101] The States bordering the North Sea have confirmed that the necessary waste oil reception facilities are available; IMO documents MEPC 38/8/5 and MEPC 38/8/3.

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[102] It also provides for the establishment of a harmonized fee system for the use of reception facilities; see IMO document MEPC 38/INF.4.

[103] IMO document MEPC 38/9/9.

[104] See IMO document MEPC 37/22, para. 13.10.

[105] Signed by Brunei Darussalam, Cambodia, Indonesia, the Lao People's Democratic Republic, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam.

[106] The Subcommittee on Safety of Navigation is currently working on a revision of the 1985 Guidelines for VTS and on a draft SOLAS regulation on VTS for inclusion in the proposed revision of SOLAS chapter V.

[107] In accordance with IMO Assembly resolution A.826(19), MSC will now adopt traffic separation schemes (TSSs), routing measures other than TSSs and ship reporting systems, as well as amendments thereto, i.e., they no longer require Assembly confirmation.

[108] Resolution MSC.52(66); IMO document MSC 66/24, annex 10.

[109] Report of the forty-second session of the Subcommittee; IMO document NAV 42/23, paras. 5.4-5.7, and annexes 8-10.

[110] IMO document NAV 42/5. The regime governing navigation in the Danish straits has been developed on the basis of the Copenhagen Convention on the Sound and the Belts, 1857. Another fixed link is currently under construction across the Sound. Denmark and Sweden have informed IMO of the measures both Governments are taking to ensure safety of navigation.

[111] IMO documents NAV 42/5/1 and NAV 42/5/2.

[112] IMO document NAV 42/23, para. 5.8.

[113] Submission of World Wildlife Fund and International Union for the Conservation of Nature, IMO document MEPC 38/7/2.

[114] IMO document MEPC 35/INF.17.

[115] In a letter dated 13 November 1995 addressed to the Secretary-General (A/50/754), the Russian Federation complained that Turkey had not taken steps to align its national maritime regulations to the IMO Rules and Recommendations. Turkey, in a letter dated 7 December 1995 (A/50/809), maintained that its national regulations were in full conformity with the IMO Rules and Regulations.

[116] See IMO document NAV 41/23, paras 4.1-4.4.

[117] IMO document NAV 42/23, para. 4.4.

[118] IMO's Strategy for Extrabudgetary Activities Relating to Environmentally Sustainable Development, adopted by MEPC at its thirty-seventh session; IMO document MEPC 37/22/Add.1/Corr.1, annex 11.

[119] IMO document NAV 41/23, paras. 4.1-4.4.

[120] IMO document MEPC 38/19.

[121] Paras. 4 and 7; circulated as document MEPC 38/INF.14.

[122] Annex 3 on "Follow-up actions related to the Strategy for the Protection of Pollution from Ships" to the Ministerial Declaration; IMO document MEPC 37/INF.14.

[123] IMO document MSC 67/7/2. The proposed sea lanes are as follows: (a) from the South China Sea to the Natuna Sea then through the Karimata Strait to the Java Sea and through the Sunda Strait to the Indian Ocean; (b) from the Sulawesi Sea through the Makassar and Lombok Straits to the Indian Ocean; (c) from the Pacific Ocean to the Maluku Sea, Seram Sea and Banda Sea either (i) through the Ombai Strait to the Sawu Sea, or (ii) through the Leti Strait to the Timor Sea, or (iii) through the archipelagic waters between the islands of Aru and Tanimbar to the Arafuru Sea.

[124] The right of innocent passage applies outside the sea lanes in archipelagic waters, in accordance with article 52, paragraph 1, of the Convention.

[125] Submission by Australia; IMO document MSC 67/7/3.

[126] International Herald Tribune, 16 May 1996.

[127] Note by the Oil Industry International Exploration and Production Forum (E & P Forum) to the Scientific Group of the London Convention, IMO document LC/SG 19/3/4, para. 4.1.1.

[128] Report of the ESCAP training seminar (19-22 September 1995).

[129] Council of Europe document ADOC 7514 of 12 April 1996.

[130] Article 1, and annex I, para. 2.4, of the draft Protocol; IMO document LC/SM/1/4.

[131] IMO document LC 18/11, paras. 5.34-5.35.

[132] See Official Records of the Economic and Social Council, 1996, Supplement No. 8 (E/1996/28), chap. I.C, decision 4/15.

[133] UNESCO document 146 EX/27, para. 38.

[134] The Buenos Aires Draft Convention on the Protection of the Underwater Cultural Heritage of the International Law Association has been transmitted to

the UNESCO secretariat. For the text, see Marine Policy, vol. 20 (1996), pp. 305-307.

[135] Draft European Convention on the Protection of the Underwater Cultural Heritage (1985); Council of Europe document CAHAQ(85)5.

[136] A draft Charter on the protection and management of underwater cultural heritage has also been prepared for archaeologists; it will be attached to the Draft Convention prepared by the International Law Association.

[137] Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 and corrigendum (A/51/10 and Corr.1), annex II, addendum 2.

[138] IMO document LEG 73/14, paras. 45-50.

[139] IMO document LEG 73/11, article V.

[140] See note by France, IMO document LEG 74/5/1.

[141] Comment by the Comité Maritime International, which has established an International Subcommittee to study the law of wreck removal; see IMO document LEG 74/5/2, p. 7.

[142] IMO document LEG 74/5/2/Add.1.

[143] Communication from the Executive Secretary of ICCAT, 21 December 1995.

[144] FAO Fisheries Report No. 534 (FIPL/R534 (Bi)).

[145] FAO Fisheries Report No. 539 (FIPL/R539(TRI).

[146] Communication from the Secretary of NEAFC dated 25 March 1996.

[147] Meeting Proceedings of NAFO for 1995, sect. V, part I, pp. 186-197.

[148] Ibid., sect. IV, annex 6, pp. 151-152.

[149] United Nations Secretariat working paper on the Falkland Islands (Malvinas), prepared for the Special Committee on the Situation with regard to the Implementation of the Granting of Independence to Colonial Countries and Peoples, A/AC.109/2048, para. 18.

[150] See A/51/183, annex II.

[151] Report of the fourteenth CCAMLR Meeting, document CCAMLR-XIV.

[152] "Process for the establishment of the Indian Ocean Tuna Commission", FAO Fisheries Circular No. 913 (FIPL/C 913), 1996.

[153] Communiqué of the twenty-sixth South Pacific Forum Meeting.

[154] Council of Europe, Parliamentary Assembly, document 7514, 12 April 1996.

[155] See A/51/210, annex IV.

[156] All are signatories to a Memorandum of Understanding with UNEP on cooperation in the implementation of the MMAP concluded in December 1991. The International Whaling Commission and the Whale and Dolphin Conservation Society have also participated as observers.

[157] The Fund is managed by the Dutch Institute for Forestry and Nature Research, at Den Burg.

[158] Final press release on the annual meeting of IWC, 28 June 1996.

[159] Communication from the Secretary of NAMMCO, 13 June 1996.

[160] Reported in ICCOPS Newsletter, No. 6, January 1996. International Centre for Coastal and Ocean Policy Studies, Genoa, Italy.

[161] Draft article 1(1) presently defines the scope, inter alia, as "the maritime waters of the Mediterranean Sea and the Black Sea, including its gulfs and seas".

[162] See A/51/183, annex I, para. 35, and annex II.

[163] Official Records of the Economic and Social Council, 1996, Supplement No. 8 (E/1996/28), chap. I.C, decision 4/6.

[164] The programme areas are: (a) integrated management and sustainable (b) development of coastal and marine areas, including exclusive economic zones; marine environmental protection; (c) sustainable use and conservation of marine living resources of the high seas; (d) sustainable use and conservation of marine living resources under national jurisdiction; (e) addressing critical uncertainties for the management of the marine environment and climate change; (f) strengthening international, including regional cooperation and coordination; (g) sustainable development of small islands. The report of the Secretary-General on programme area G is contained in E/CN.17/1996/20 and Add.1-5.

[165] E/CN.17/1996/3 and Add.1.

[166] Official Records of the Economic and Social Council, 1996, Supplement No. 8 (E/1996/28), chap. I.C, decision 4/15, sect. C.1-2.

[167] Ibid., chap. I.A.

[168] In accordance with General Assembly resolution 50/113, para. 13.

[169] As noted, for example, in UNEP decision 18/31 of 25 May 1995. See Official Records of the General Assembly, Fiftieth Session, Supplement No. 25 (A/50/25), annex.

[170] A/51/116, appendix II, para. 17. UNEP decision 18/32 lists 11 persistent organic pollutants belonging on the short list under discussion by

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the Economic Commission for Europe in the context of the 1979 Convention on Long-range Transboundary Air Pollution.

[171] Ibid., paras. 3 and 4.

[172] These are sewage, persistent organic pollutants, heavy metals, radioactive substances, nutrients and sediment mobilization, oils (hydrocarbons), litter and physical alterations, including habitat modification and destruction of areas of concern.

[173] WHO, IAEA, FAO, IMO Inter-organizational Programme for the Sound Management of Chemicals, the International Programme on Chemical Safety and the Intergovernmental Forum on Chemical Safety.

[174] Many global and regional bodies have already specifically endorsed the Global Programme e.g., the Meeting of States Members of the South Atlantic Zone of Peace and Cooperation.

[175] IMO document LC/SM 1/4.

[176] IMO document LC 18/11/Rev.1, paras. 5.25-5.29.

[177] IMO document LEG/CONF.10/8/2.

[178] IMO documents LEG 73/14, paras. 51-54, and LEG 73/12.

[179] IMO document LEG 74/4/1; see also LEG 74/4/2, in which the Comité Maritime International summarizes a number of the issues it considers relevant to the subject.

[180] IMO document MEPC 38/6/5.

[181] The request was made by Argentina, Australia, Brazil, Chile, Colombia, Cuba, Indonesia, Ireland, Mexico, New Zealand, Solomon Islands, Spain and Venezuela.

[182] IMO documents MSC 66/24, para. 21.17, and MSC 67/15.

[183] IMO document MSC 66/24, para. 21.18.

[184] Submission by Solomon Islands, IMO document MSC 67/15/1.

[185] IMO document NAV 42/23, paras. 6.6-6.17. Ships carrying INF materials are generally tracked throughout their voyage, by either the shipowner or a shore-based authority of one of the countries involved in the transport activity.

[186] IMO document MSC 67/15, para. 6.

[187] See A/51/183, annex II. See also the proposal submitted by Argentina to IMO, document LEG 74/12/1: it suggests, *inter alia*, that ships carrying INF materials should navigate exclusively by a high-seas route; and if this does not

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prove possible, alternative routes can only be established in consultation with the coastal State.

[188] CARICOM secretariat press release 50/1996.

[189] The Auckland Communiqué, 10-13 November 1995.

[190] See A/51/357, annex.

[191] UNEP/CBD/COP/2/19, annex II.

[192] See note by the Executive Secretary, UNEP/CBD/COP/3/35.

[193] UNEP/CBD/COP/3/3, recommendation II/10.

[194] Official Records of the Economic and Social Council, 1996, Supplement No. 8 (E/1996/28), chap. I.C, decision 4/15, para. 24.

[195] The second Conference of Parties to the Biodiversity Convention, in paragraph 13 of decision II/10, called on relevant organizations to review their programmes with a view to improving existing measures and developing new actions which promote the conservation and sustainable use of marine biological diversity (UNEP/CBD/COP/2/19).

[196] Reported in International Centre for Coastal and Ocean Policy Studies newsletter, No. 6, January 1996.

[197] Official Records of the Economic and Social Council, 1996, Supplement No. 8 (E/1996/28), chap. I.C, decision 4/15, paras. 44-45.

[198] Ibid., para. 43.

[199] E.g., the Third Conference of Parties to the Convention on Biological Diversity will be examining, inter alia, a suggestion by the Executive Secretary to have "a regular overview report on activities under other institutions and/or conventions relevant to the implementation of the Convention (along the lines of the report submitted by the Secretary-General of the United Nations to the General Assembly in relation to the law of the sea)" (UNEP/CBD/COP/3/35, para. 80).

[200] Text reproduced in Law of the Sea Bulletin, No. 31 (1996), p. 40.

[201] Ibid., p. 42.

[202] See the "Agreement on Principles", done at Paris on 21 May 1996 (S/1996/447, annex); also reproduced in Law of the Sea Bulletin, No. 32 (1996), p. 94 (in press).

[203] Itar-Tass, 14 August 1996.

[204] A/50/73-S/1995/83. The 1994 Treaty was also brought to the attention of the International Maritime Organization by Israel in view of its provisions on maritime matters; IMO document MSC 66/24.

[205] Done at Aqaba on 18 January 1996; reproduced in Law of the Sea Bulletin, No. 32 (1996), p. 97 (in press).

[206] S/1996/427.

[207] IMO document MSC 66/24, paras. 23.16 to 23.20, and annex 29 containing the full statement of Lebanon.

[208] S/1996/627.

[209] S/1996/692.

[210] Reuters, 8 August 1996.

[211] The New York Times, 16 September 1996.

[212] Official Records of the Economic and Social Council, 1996, Supplement No. 10 (E/1996/30), chap. I.A, draft resolution II.

[213] The European Community has requested inclusion in the work programme of the IMO Working Group on Ship/Port Interface of the installation of systematic border controls at seaports in European Union countries against illicit trafficking of radioactive materials; IMO document FAL 25/12, para. 15.3.

[214] A serious criminal situation has emerged in the Caucasus region, aggravated by the infiltration of mercenaries, arms, narcotics and contraband into the territory of Abkhazia, Georgia. By the Decree of 31 January 1996, Georgia has closed the seaport of Sukhumi and ports and the marine area between Georgia and the Russian Federation within the territory of Abkhazia to international shipments (S/1996/240, annex I).

[215] Convened pursuant to recommendation 9 of the Working Group and resolution 8 (XXXVIII) adopted by the Commission on Narcotic Drugs in 1995 (see Official Records of the Economic and Social Council, 1996, Supplement No. 9 (E/1996/29, chap. 12).

[216] A/51/437.

[217] Report of the Regional Meeting on Drug Control Cooperation in the Caribbean, Bridgetown, Barbados, 15-17 May 1996.

[218] IMO document FAL 24/19, paras. 7.17-7.26.

[219] Bulletin of the Baltic and International Maritime Council, vol. 90, No. 5.

[220] Canada has noted that most of the aliens coming to it are in fact asylum seekers. An agreement between Canada and the United States on the return and

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readmittance of refugees aimed at subjecting them to a full and fair refugee determination procedure was expected to be signed in February 1996; IMO document FAL 24/19, para. 18.4.

[221] Report by the West England P & I Club (September 1995), in the Bulletin of the Baltic and International Maritime Council, vol. 90, No. 5.

[222] IMO document FAL 24/2/5, para. 6.

[223] IMO circular FAL.2/Circ.43.

[224] IMO document FAL 24/19, paras. 10.1-10.5.

[225] E/CN.15/1996/4, para. 45.

[226] The draft resolution was advanced by the United States; press release SOC/CP/192/Rev.1.

[227] IMO document MSC 66/16/Add.1.

[228] Submission to IMO by the International Maritime Bureau of the International Chamber of Commerce; IMO document MSC 66/16/2.

[229] Note by the Government of Turkey; IMO document MSC 67/INF.2.

[230] IMO document MSC 66/24, para. 16.11.

[231] Offshore, vol. 56, No. 5 (May 1996).

[232] Offshore, vol. 56, No. 6 (June 1996); and vol. 56, No. 8 (August 1996).

[233] Cook, P. J., Social trends and their impact on the coastal zone and adjacent seas, British Geological Survey Technical report WQ/96/3, 1996.

[234] Offshore, vol. 56, No. 4 (April 1996).

[235] The New York Times, 27 February 1995.

[236] The Christian Science Monitor, 15 August 1995.

[237] Ocean Science News, 29 February 1996.

[238] Cook, op. cit.

[239] For current information on "pioneer investors", see document ISBA/A/10.

[240] Offshore, vol. 56, No. 1 (January 1996).

[241] Ibid.

[242] Mining magazine, June 1996.

[243] Press release, IAEA/1309, dated 24 September 1996.

[244] IPCC second assessment: Climate Change 1995. Report of the UNEP/WMO IPCC.

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[245] Ibid., p. 23.

[246] The Working Group, which is supported also by the Division for Ocean Affairs and Law of the Sea, held its first meeting, at Geneva on 17 and 18 May 1996.

[247] Report of the twenty-sixth session, GESAMP Rep. Stud. 60 (1996).

[248] See also "The contribution of science to integrated coastal management", GESAMP Rep. Stud. 61 (1996).

[249] Report of the twenty-fifth session, GESAMP Rep. Stud. No. 56, para. 8.2.

[250] The New York Times, 28 November 1995, p. C1.

[251] Ibid., 24 October 1995, p. C7.

[252] Ibid., 2 July 1996.

[253] Ibid., 19 March 1996, p. C1.

[254] Offshore, vol. 56, No. 5 (May 1996), p. 33.

[255] Ibid., vol. 56, No. 5 (May 1996).

[256] Business Week, 30 October 1995.

[257] Offshore, vol. 56, No. 6 (June 1996), and vol. 56, No. 8 (August 1996).

[258] Ibid., vol. 56, No. 5 (May 1996), and vol. 56, No. 8 (August 1996).

[259] Mining journal, 5 January 1996.

[260] The fellowship is given by the United Nations Legal Counsel, on the recommendation of the Advisory Panel of prominent personalities in law of the sea and international affairs under the chairmanship of Professor John Norton Moore, Director of the Center for Oceans Law and Policy, University of Virginia School of Law.

[261] Ms. Tamoepeau is expected to carry out her fellowship and research and study at the Oxford University Faculty of Law.

[262] The United Kingdom has requested that the candidate be chosen from a developing country and pursue a one-year LL.M. programme or carry out advanced study and research, at the graduate level, at a university in the United Kingdom.

[263] A report of the meeting will be published.

[264] Currently UNDP has a portfolio of over $70 million in ocean/coastal projects and plays an active role in developing the international waters and marine biodiversity components of the Global Environment Facility.
